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HISTORY OF SCOTLAND

THE

HISTORY OF SCOTLAND

FROM AGRICOLA'S INVASION TO THE REVOLUTION OF 1688

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BY

JOHN HILL BURTON

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FROM the period we have now reached, the earlier part of the twelfth century, we shall have to go back five hundred years to recall the latest events of moment that can be distinctly recorded about the Church in Scotland. It is very instructive to observe, in the

notices of St Maelrubha, how the sources of our knowledge of the progress and internal economy of the Columbite Church became suddenly closed. Down to the year 671, when, still a young man, he resolved to join the brethren in Scotland, his pedigree and personal history are as well known as those of any young member of our peerage, who, stricken with a romantic love of missionary enterprise, has been fitted out for Madagascar or the Marquesas Islands. From that period his true history is lost, and the scene of his labours is ascertained by diligent researches in etymology and topography. It is as if he had suddenly plunged backward from an age of civilisation into a previous age of darkness. In history we must sometimes admit the existence of a phenomenon very antagonistic to the tenor of most men's education and habits of thought—to go forward from light into darkness. We must submit to this disagreeable ordeal in tracing what is to be found about the progress of Christianity in Scotland. The period is a long one too, though it goes trippingly by in a civil history which has few events to tell, while these few all tend by harmonious sequence to the growth of a state, and the articulation of its several parts. If we look back upon history from our own times, five hundred years make a long gap. The intellect is tired in running over the revolutions and reconstructions of empires and dynasties, the growth and annihilation of great systems of thought and action that may be counted within such a period.

Yet such is the period which elapses between the time at which we have a sort of familiar acquaintance with the Columbites and their ways, and the time when the Church again rises above the surface. It may be

said just to peep out from its obscurity in the days of Queen Margaret, but it was in the reigns of her sons that it came into active open life, side by side with the state.

If it be somewhat astounding to reflect on so enormous a blank in the annals of a nation's religion, it is perhaps reassuring—it is certainly a matter of great interest in itself—that during that long period of obscurity Christianity lived on. Not only the faith itself lived—though, as we shall see, not always in great purity—but it managed to engraft itself with substantial temporal institutions, which gave it solidity. In fact, when the Church comes to light again, it is with a hierarchy and organisation of its own, the origin and formation of which, as all grew quietly in the dark, have put at defiance the learning and acuteness of our best antiquaries to account for. It need hardly be said that so tempting a blank could not escape being well filled up from fabulous sources. The popular historians seem to have acted in the spirit of the old popular physics, which made nature abhor a vacuum. We have the lives of bishops all set down regularly in the order of their apostolical descent from missionary bishops duly commissioned from Rome; and indeed the further we go from any central spot where light may be expected, the more distinct and complete is the sequence generally to be found. So the list of the bishops of the Isles begins in the year 360 with Amphibalus, who is succeeded in due order by Germanus, Conindricus, Romulus, Machatus, Conan, Contentus, Bladus, and Malchus.

Documents which were long held to be laws of the Church of Scotland, or the proceedings of ecclesiastical

councils during this dark period, have been struck out of true history by critical inquirers, and have thus shared the same fate with the collections which professed to be codes of secular law adopted by the early monarchs. Of the ecclesiastical records professing to belong to Scotland before the reign of David, the few that have been admitted as authentic have been handed over by the archæologists to Wales and to Ireland. Hardly anything professing to be contemporary evidence of the condition of the Church in this dark age has been permitted to remain, except the brief announcement in the chronicles, that King Grig, with whom we have had to deal, freed the national Church from the bondage to which it was subjected by the usages of the Picts. What these usages were we are left to discover elsewhere, and all we have is the conjectures of the best critics, that they were those burdens connected with the growth of the feudal system, which in many parts of the world secular potentates were striving to lay upon the Church, and the Church was striving to be rid of.[1]

Still there is something to be found out and told even about this long dark period. We know something of the Church when the darkness came on, we see what the Church was on emerging from it; and if we cannot speak to dates or persons, we can see in some measure what influences have been at work: it is almost more to the point that we can show what influences have not been at work in this obscure Church.

But further, with the twelfth century we come into the period of records, that haven of satisfaction to all

[1] See Statuta Ecclesiæ Scot., Pref., xviii., and the opinions referred to in the notes.

zealous and honest investigators. The state of matters which the records found is stereotyped and preserved for us. And not only so, but the records, in the shape of charters and the registers of religious bodies, when recording what they find, have sometimes to go as far as they can grope their way into the past, for the purpose of recording how rights of property, dynasties, and the other objects of human cupidity to which records generally refer, came to be in their existing condition. A common method of inquiry for this purpose was by Inquest by a public jury of the substantial persons of the district, who could act partly as investigators, partly as witnesses, and who would give in to be recorded their finding about how the right in question stood for perhaps a generation or two back.

So, for instance, David, the brother and successor of Alexander, becoming Lord of Cumbria, and desirous for the revival of religion and the Church there, presents his tutor John to the see of Glasgow, and has an inquisition concerning the privileges and functions of the bishop and the temporalities of the see. He does so with the assistance of the elders and wise men of his principality. It is found, of course, that St Kentigern was the first bishop, and that, after pouring forth the gospel in abundance to a hungering and thirsting flock, he was succeeded in his diocese by other holy men—all matters on which the opinion of the jury need not be taken as recorded evidence. There is then a lamentation over the desolation of the district overrun by turbulent tribes, who desecrated and plundered the property of the Church—a general statement in which the jury are perhaps correct. The last thing recorded is the practical result of the inquiry, the designation of the

lands, some of them on the English, some on the Scots side of the border, which form the patrimony of the Cumbrian bishopric.

By the lights thrown upon the Church in the twelfth century, we see some clear facts of a general character. There were bishops, and some of these at least had districts or dioceses in which they exercised authority. There were also sub-partitions marking out small districts in which simple priests did the duty of their order; and many of these, as they were in Queen Margaret's time, are identical with the parishes served by Presbyterian ministers at the present day. So far there were certain usages in conformity with the ecclesiastical hierarchy prevalent throughout Europe. But the lights of the twelfth century revealed, in the arrangements for religious services in Scotland, a special body of clergymen whose position and function perplexed, if they did not horrify, all ecclesiastics trained in the legitimate school of their order, who first had to look upon them. The name by which they were known was "The Culdees;" and when this appears in the twelfth century in Scotland, and we find it known at a much earlier period in Ireland, whence St Columba and his troop of missionaries came, we naturally look in that direction for a definition of the term. We do not find it, however. It is easier to say what the Culdees were not, than what they were; and, in fact, the best notice of their position is afforded by a reference to those conditions of the outer world of Catholic Christendom in which they were not partakers.[1]

[1] Not only is there a world of historical and polemical controversy about the Culdees, but the attempts to fix the origin of the word "Culdee" make a curious little chapter in etymological literature. The word has naturally enough been connected with Columba, and all trouble was saved

Diocesan episcopacy, in subordination to the Bishop of Rome, had been consolidated over all but a small part of Christian Europe. The arrangement into districts was in England forecast by the civil division into what was called the Saxon Heptarchy. Besides constructing this great hierarchy, the Church of Rome had performed a greater feat in bitting and bridling the naturally erratic monastic orders. When wild enthusiasts sprang up, as they did, carrying crowds along with them by a sort of moral epidemic, it was the

by making him "the founder of the order," as St Benedict was of the Benedictines. Among the renderings of the name in old chronicles is Cœlebes, which most people know to mean bachelors; and Cœlicola, which may be interpreted Heaven-reverencer or worshipper. Another and more likely-looking origin was from Kill, a cell; but if this had correctly hit their way of living at the times when they were unknown, it was far from applicable to their domestic arrangements when they came to light in the twelfth century. Another supposition was, that they were "Cultores Dei," the term being abbreviated. Among derivations from the Celtic there is one where "the name Cele-de is interpreted the Spouse of God."—Reeves, 76. Another is "*Ceile*, simul et *dea* homo, ita ut vox composita 'homines in commune viventes' significet."—Ibid. Down on all this etymological vacillation comes Dr Reeves with the full weight of his great Irish ecclesiastical learning. He puts an end to the controversy in telling us that the Celtic of which Culdee is a corruption is Céle-Dé, which is merely a translation of *servus Dei* — servant of God — the character assumed by the regulars, and by other priests also, until it was emphasised by the Pope as the *servus servorum*. This old Celtic word for servant came in the Scots Celtic of later times to be hardened into the word gilly, well known to the tenants of Highland moors. Thus has it happened that at the present day the etymological representative of the Culdee is found in the gamekeeper's assistant.

A German essayist of the year 1840 anticipated, probably by guess, this interpretation, inferring it from a careless saying of Boece's—"Ipse enim aperte testabatur Culdeos *prisco vulgari lingua*, *i.e.*, Scotica, nomen habere. Jam illa lingua *Kele* servus, et *De* deus est; Keledeus igitur est *famulus*, *servus* Dei."—Braun de Kuldeis, p. 25. The editor of the Statuta Ecclesiæ Scoticanæ, without entering on controversy, preserves a host of examples bearing on the use of the term, and certainly leaning to its being a rendering of *Dei cultores*, or worshippers of God.—Preface, ccxii.

policy of the Church not to cast them forth, but to train them to expend their energies in its service. In the old civil polity of the Roman Empire, on which it drew for what it wanted, the Church found an institution exactly suited to its present purpose. This was the Corporation. We are so accustomed both to hear the word itself, and to see the institution signified by it in active operation, that it appears a natural growth of civilisation. It was, however, the invention of the Roman lawyers, who imparted to it all its pliability and strength, and brought it to the perfection in which we now see it. The specialties of it are, that it enables any number of men, large or small, to act with freedom as a separate organised system of government—an empire within an empire—while it provides for the public safety by bringing the whole mass as a responsible being under subjection to the law, and as easily accessible to its administration as a single citizen. Even the English common lawyers, seeing the simplicity and power of this organisation, could not but adopt it, though it came from the hated manufactory of the civilians. This model had two effects on the religious communities. It was a machinery by which they could be effectually subordinated to their proper masters, be they lay or ecclesiastical. The masters of the monastic orders were of course ecclesiastical—the great Roman hierarchy which ruled them as the Empire ruled its own municipalities. The other effect appeared in the distinctive form and attributes which each spiritual corporation, or group of corporations, received. Thus arose the group of institutions so compactly ordered against assault from without, yet so amenable to authority from above.

To this potent organisation the great bands of erratic enthusiasts were subjected; and if it gave them collective strength, it restrained individual eccentricity and excess by subjecting all to combined action. The rise of feudality strengthened the Church's hold over them. If they did not rally close round the spiritual authority, they would be absorbed into the state—at least their worldly possessions would, and these came to be large and worth saving. The absorbing power of feudality, as we have seen, pressed on all landed property. The Church could not always hold its own even when a large and powerful body were the immediate defenders, and the great monastic institutions which lapsed into lay lordships are a notorious feature in the history of the Church. But small isolated communities had little chance of keeping their lands from the immediate grasp of some greedy lay lord; and it was consequently the interest of the monastic class to aggregate themselves into large and powerful communities. The Benedictines seemed at one time to have swept them all under their own dominion. But there arose rivals, and perhaps these were rather encouraged than repressed by Rome, since all monasticism, united under one head, might have made a formidable vassal for the head of the Church.

Let us now ask how far, during the dark period just referred to, the Scots clergy partook in these elements of Romanised Christendom. Though at the time of the revival there was a tendency to aggregate districts under bishops, there certainly was not then in existence a system of diocesan episcopacy in due subordination to the Bishop of Rome; in other words, the country had not been partitioned into dioceses with a bishop over each, who acknowledged the Pope as his master. We

have seen a bishop or two appearing in the time of Columba. Ireland, we have seen, was crowded with clergy who took rank as bishops. That these swarmed outwards on the Continent and England we know by the angry laws passed to prohibit them from exercising their functions, on the plea that they were not true bishops, having no assigned diocesan districts. Some of these may have come to Scotland, but it is not likely that they would find much to attract them to that sheepfold.

It is a precious acquisition to be carefully treasured, that in the chronicles deemed genuine the existence of a bishop is mentioned about the beginning of the tenth century. It is told in the briefest terms that Constantine the king and Kelloch the bishop swore or made oath to preserve the laws and discipline of the faith, and the rights of the Church and of the *evangeli*, along with the Scots, on a mount near Scone.[1]

Nearly at the same time there are faint traces of an Ardepiscop, or high bishop of the Scots, who had his see at Kilrymouth, afterwards St Andrews.[2] It was long, however, as we shall find, ere metropolitan rank was given to St Andrews, but a sort of superiority was claimed long before it was admitted in the usual shape, the Bishop of St Andrews calling himself especially the Bishop of the Scots.

Since it was clear that the Culdees were not under an episcopal hierarchy like the secular side of the Church, the next recourse was to find a place for them on the regular side among the monastic institutions.

[1] Chronicon Pictorum. The mount would of course be the celebrated Mute Hill. The chronicle says that on account of the ceremony by Aidan it received the name of the Hill of Belief, Faith, or Credulity—according as we shall translate *Crēdulitas*.

[2] Stat. Eccles. Scot., Preface, ccvi.

To find that they were regular—to speak of them as dispersed in communities which were governed by abbots, not by bishops—was to make them in some measure exceptional, but not entirely to put them out of the pale of the great Catholic system. But if they were regulars, to what rule did they belong? Were they Benedictines or Carthusians? If not, were they Cluniacs, or Augustines, or Cistertians? Some of these orders were of comparatively late origin, while others that had been in existence in the earlier period, just after the death of Columba, had disappeared. But still the broad question remained to be answered, if the materials for a satisfactory answer could be found, How were these Culdees grouped under masters—bishops or abbots—as a medium of responsibility to the Bishop of Rome? A negative answer has been reached by a great waste of labour—the labour of those who have searched in vain for the place of the Culdees in the Romish hierarchy, instead of being content with the ready discovery that they had no place there. How Rome could have reached them it is hard to say, and it is pretty evident that there was no general inclination among them to seek Rome.

Had Iona continued to be what it was under Columba, there might have been an addition to the other orders in the order of St Columba; and had a powerful and compact body, under one ruler, existed in Scotland, it would have been worth looking after by the Bishop of Rome, and might have been attached to the Catholic system like the others. On the other hand, the people were not so advanced in Christianity and civilisation as to work a popular system of church government like that of the Presbyterian com-

munities. Such zeal as the community had took a shape which kept a Christian ministry in existence, but did not tend to give it an orderly character. These bodies of Culdees were from time to time largely endowed with lands; and extensively as these found their way back to secular ownership, there was a large breadth of ecclesiastical property to be dealt with when church reform was taken up.

Thus affluent, and responsible to no supreme authority either above them or below them, these Culdees were independent and self-willed, and went into devious courses, as men, when independent of rule, naturally will. Asceticism and celibacy were among their traditions as things praiseworthy and desirable. But, all the world over, there is a difference between communities professing to follow, of their own accord, some refined standard, and others where the same standard is enforced by a sharp taskmaster. The Culdees married and gave in marriage, many of them founding considerable families, enriched by church property.[1] The gracious Duncan was the son of Cronan or Crinan, abbot of the Culdees of Dunkeld, who had for wife the daughter of Malcolm II. The abbot of the Culdees of

[1] Celtic scholars derive some eminent Highland names from a priestly fathership, commemorated as a distinction. MacNab is said to be the abbot's son; MacIntagart, the priest's son; MacClery, about equivalent to the clerk's son. The great name of MacPherson is traced to Persona, or Parson; and the names MacPrior and MacVicar speak for themselves.

"During the range of time in which the term is of record, we discover the greatest diversity in its application,—sometimes borne by hermits, sometimes by conventuals; in one situation implying the condition of celibacy, in another understood of married men; here denoting regulars, there seculars; some of the name bound by obligations of poverty, others free to accumulate property; at one period high in honour, as implying self-denial, at another regarded with contempt, as the designation of the loose and worldly-minded."—Reeves, ii. 3.

Brechin, and his sons and grandsons, are found in old writs granting away church lands.

In fact, when the recording operations of feudalism touched on the property which had been assigned to religious purposes, it found that almost as a uniform system the larger part of each endowment had become vested in lay owners, and that for spiritual purposes there was either reserved a small portion only of the land, or a pension or allowance from the rents, not very punctually paid, and very liable to drop out of use and recollection.[1] Powerful lords held the title of abbot, though not conspicuously,—just as in later times, in France and Germany, such a dignity might be found in the crowd of titles which a great statesman or field-marshal could muster for state occasions. The ecclesiastical title had naturally a tendency, after a generation or two, to be absorbed in others. It can sometimes be noticed in the course of its metamorphosis, as where, in one generation, the head of an affluent family is called "the abbot," while in another he is called "the lord of the abbacy." This secularising process went through all grades. We find "the parson" of a district or parish, and also "the priest,"—the former being a sort of yeoman proprietor, while the other is what he is called.

[1] "Take for example the ancient abbeys of Abernethy and Brechin, as we see them in the charters of the twelfth and thirteenth centuries. Their endowments have been divided into two parts. The larger and better portion, together with the name of Abbot, had been usurped by laymen, who transmitted the benefice and title as a heritage to their children. What remained, with the name of Prior, was possessed by ecclesiastics, who discharged, perfunctorily enough perhaps, the duties for the performance of which the whole revenues had been originally assigned by the founders."—Robertson's Scholastic Offices in the Scottish Church, p. 11.

Researches through the records show that among the Culdees there was a grade of churchman—the humblest, apparently—who was called the scholar. In the Pictish language, as we are told, he was called Scoloch. He assisted the priest in the services of his church. Even this office was sometimes endowed with lands, and such lands have been found undergoing the secularising process.[1]

The feudal system, which came rapidly into practice in Scotland after the Norman conquest of England, would only have the effect, if left alone, of tightening the grasp of the lay proprietors on the church lands.

[1] Robertson's Scholastic Offices in the Scottish Church in the Twelfth and Thirteenth Centuries. This, though a mere tract, throws more light on the early condition of the Church than many a solid volume, as it goes into actual practice. The following is a very clear account of the condition in which the feudal system finds some patches of land dedicated to church purposes :—

"Ellon was of old the capital of the earldom of Buchan. Here, on a green mount rising from the bank of the Ythan, those ancient earls administered justice, received the homage of their liegemen, and took investiture of their great fief. The parish church, participating, as would seem to have been the custom, in the metropolitan dignity of the place, appears to have had an endowment for the maintenance of four scolocs. We first hear of them in the year 1265, when Gameline, bishop of St Andrews, 'let his land of Ellon, in Buchan, which the scolocs of Ellon hold (*quam Scoloci de Elon tenent*),' in lease to Alexander Cumyn, Earl of Buchan, for a yearly rent of two marks of silver. The earl bound himself to perform the military service due from the lands; to be leal and faithful to the bishop and church of St Andrews; and, at the expiry of the lease, which was for three lives, to restore the land to the See, 'by its right marches, with all its appurtenances, as the scolocs now hold it (*sicut Scoloci eam nunc tenent*).' More than a century afterwards, in the year 1387, the land which had been thus leased became the subject of an inquest, made at the parish church of Ellon, by Walter, bishop of St Andrews, with consent of the bishop of Aberdeen, the ordinary of the diocese. The 'good men and true of the country,' who were sworn of the inquest, declared 'that the church lands of Ellon, which are called the Scolog lands, are of the yearly value of fifteen pounds thirteen shillings and four pence sterling, and were worth of old twenty pounds, and

It was one of the historical epochs which seem to offer an alternative. In this instance it was whether the Church in Scotland should belong to the feudal system, or belong to the Catholic system, headed by the Bishop of Rome. The influence of St Margaret and her children gave the triumph to the latter.

It must not be understood that the secularising of the ecclesiastical offices and emoluments was peculiar to the Scots Culdees. It is a natural process against which the Church of Rome has striven and threatened and wailed during all the centuries in which its inner

there are due from them, to the Lord Bishop of St Andrews, the over-lord, sixteen shillings yearly;' that the bishop may put bailifs in the lands at his pleasure, who may hold courts, at which all the folk of the land are bound to appear, suits there to follow or defend, and judgment to undergo, as of right and use is: 'that custom was, that the heir of any scolog deceased (*Scologi defuncti, Scolagii defuncti*) should be entered in his heritage by the bailif of the lands, without letter of inquest from the over-lord.' 'But hereupon,' says the record, 'in face of the witnesses, after their declaration of inquest, Dame Anabel of Liddel, one of the tenants of the lands aforesaid, being there personally present, affirmed that she had entered into her land, being a portion of the lands aforesaid, by letter of inquest, and had given a seisin ox, after the manner of the country, which ox one there present affirmed that he had received; and the Lord Bishop protested that he was then in possession of this right, namely, that the heir of every scolog (*cujuslibet Scolgi, cuiuslibet Scolagij*) should enter to his heritage by inquest and seisin thereupon following, after the manner and common use of the realm.' After this interruption, the record bears that the men of inquest declared that the quarter or fourth part of the lands aforesaid, which had belonged to the deceased Megot, daughter of the deceased David of Ferley, was now in the bishop's hands, by reason of the non-presentation of an heir; that from the lands aforesaid there are to be found, for the parish church of Ellon, four clerks (*clerici*) with copes and surplices, able to read and sing sufficiently; that the quarter or fourth part of Easter Ellon is bound to find a house for the scholars (*pro scolaribus*) at Ellon; that the quarter or fourth part of Candellan is bound, twice in every year, to find twenty-four wax candles for 'the park' or 'perk,' before the high altar; and that the quarter or fourth part of Ferley aforesaid is bound to find a smithy (*fabrinam*) at Ellon."

history is known. There are some features, however, that have made it conspicuous in Scotland. One is, no doubt, its excess there above other places. Another is the systematic way in which it seems to have gravitated down to the humblest offices in the Church. In other parts of Christian Europe it was generally reserved for princes and great territorial lords to be charged with attempts on the patrimony of the Church, or an impropriation of its offices. But chiefly it is likely that this feature, along with others in the old Scotch Church, became conspicuous from the suddenness of the ecclesiastical revolution caused by the settling down in Scotland of a royal family accustomed to their own Saxon Church, and its thorough conformity to Catholic unity.

However the spiritual services for which these lands may have been conferred were performed, an impression is conveyed by the documents concerning them that the lands themselves were appreciated and well cultivated. There is an anxiety about their precise boundaries which it would scarce be worth bestowing on the barren moorland; and, indeed, sometimes a large tract is spoken of as waste, and appropriate to hunting—a description leaving the inference that other portions are separated for cultivation. We have sometimes malt-kilns and meal-mills, with the organisation for adjusting the mutual services and obligations of the owner of the mill and the feudatories who must go to it and to no other. There are fishings and ferries, with special privileges of service on the estates of other owners, showing an advanced nicety in the division and adjustment of rights and obligations.

It must not be forgotten that all we know of

the Culdees is from the light let in on the state of religion in Scotland, when the revival came in the reign of Queen Margaret's sons. How old any of the peculiarities of the body were we can only argue from the tenacity with which they had taken root, while we have no warrant for connecting them with the mission of Columba.[1]

[1] On the question whether there is at present any known evidence of the extreme antiquity of the Culdees as a widespread institution, one can now take up the negative with thorough assurance, since it is clear that all possible available sources of information must have been examined, when we know that both Reeves and Robertson have gone over the ground. The anachronism of identifying the Nonconformists of St Margaret's day with the zealous fraternity of St Columba's was very well put by Bishop Lloyd, although the little volume in which he told it is so full of fierce controversy that the still small voice, speaking of hundreds of years lying between one thing and another, is apt to be lost in it. He says:—

"As for the word Culdee, it is of a much later edition. I do not remember that I have read it in any authour before the time of Giraldus Cambrensis. Then it was a very usual thing to find out Latin derivations for those words of which men did not know the original. And thus the Kyldees or Kylledei came to be called Culdei or Colidei—that is, the worshippers of God, being such as spent their whole time, or a great part of it, in devotion. Either way it appears that they were monks, and that, I know, will be easily granted me.

"But then the question is concerning their antiquity. And for this we must not look so high as any writer I have mentioned in my History of Bishops. My latest authours were Bede and Ninnius. But Bede writ in the year 730, and Selden, who is (for ought I know) the first that brought this instance of the Culdees into this controversie, yet acknowledgeth that in Bede there is no mention of them. Nor are they mentioned in Ninnius, who writ about 120 years after. I should add they are not mentioned for some hundreds of years after Bede: but because I may be mistaken, I shall name all those places where I find they are mentioned by any writer till within these 200 years.

"First in Scotland we reade of no Culdees that ever were at Hy, or in any other place where the Scots anciently dwelt. But as oft as they are mentioned, we find them still at St Andrews, which was in the countrey of the South Picts; and they are not said to have been there till it had been many years the see of a diocesan bishop. The see was

There is a source of confusion both as to the meaning of the word and the character of the people to whom it applied, in our finding the word Culdee used in early times as a term of reproach, in later as a term of high approval and admiration. Supposing it to have been merely a local adaptation of a term common throughout the churches of the day, to signify either

removed hither from Abernethy, as the Scotish historians tell us, by Kenneth II., who died in the year 854.

"About a hundred years after this—namely, in the year 943—Constantine the Third, King of the Scots in Scotland, is said to have left his kingdom, and become abbat of the Kildees or Killidees of St Andrews.

"In the year 1108, Turgot, Prior of Durham, was made Bishop of St Andrews, and continued seven years. In his days all the right of the Keledei throughout the whole kingdom of Scotland past into the bishoprick of Saint Andrews. This is taken by Mr Selden out of Durham History, which he saith is much later than Turgot's time. But whereas Mr Selden fansies strange things of that right of the Keldees here mentioned, I guess it might be the right of confirming the elections of all the bishops in Scotland. This had been done by them as being the primat's dean and chapter; but was now taken from them, and performed by the primate himself. For this interpretation, I think there is ground enough in the account that a Culdee of St Andrews has given of the foundation of his Church; where he says, that the archbishoprick of all Scotland belongs to that city, and that no bishop in Scotland ought to be ordained without the counsel of the seniours of that place. But this by the way.

"In the year 1272, the Keldees of St Andrews are mentioned by Silegrave in his Catalogue of the Religious Houses in Britain.

"In the year 1297, November the third, the canons of St Andrews elected William Lamberton bishop; the Keldees there opposed the election, and their provost Aulmin appealed to the Pope: but the Pope approved the election, and so for the future the Keldees lost all their right they had before, saith our authour, meaning (I suppose) all their right of electing the archbishop, which belonging to them before, as being the dean and chapter of that see (as the abbats and monks of St Austin's were at Canterbury). After this, in their place at St Andrews there were brought in canon regulars, to whose prior was given the honour of preceding all the abbats of Scotland—that is, as I take it, they were made the primat's dean and chapter for the future. This is all the credible account that I can find of any Culdees in Scotland."—Historical Account of Church Government, p. 139-143.

a servant of God or a conductor of the worship of God, it came to be used by the Church, when reformed to Catholic unity, as a descriptive term—a nickname, as it were, of the old unreformed Church. It was the retention of a name obsolete in the living Catholic Church for a body which had become in itself obsolete. It is a common incident of ecclesiastical revolutions, that they bring the names revered in one age to contumely in another. The terms Monk, Friar, Priest, Parson, even Presbyter and Curate, have all been used in their turn as terms of reproach.[1] So, when in the Church reformed to Catholic unity reference was made to the old, idle, ignorant, worldly priesthood of the relaxed age, they were called "Culdees."

In estimating their place in history, and their influence on the ecclesiastical destinies of Britain, the conditions under which their name came into good repute should not be omitted. In the great controversy of the seventeenth century it was a tower of strength to the Presbyterian party. It thus did duty in a theological conflict, of the earnestness and fierceness of which it is fortunately now difficult to form a conception. We may judge of the provoking strength of the position thus obtained by the rage of the opponents. Here was no mere blank as to which it could be maintained that the Church must have existed then, as at all other times, as an episcopal hierarchy. There were full details of ecclesiastical particulars concerning the Columbite Church, in which, to say the least,

[1] "Presbyter," though a term of the Church Catholic, has often been used reproachfully in controversy with Presbyterians. After the Revolution in Scotland, the remnants of the old Episcopal clergy were called "Curates" as a general term of contempt, whether that expressed their degree in the Church or not.

bishops had not their proper place; and it was not easy, with the imperfect knowledge of the age, to answer the assertion that the system of that Church—formed on a presbyterian model—lasted until Rome became strong enough to invade this last northern refuge of primitive purity. Independence or repudiation of Rome was not then a matter of interest to the parties, who both belonged to the Reformed Church; but it was deemed matter of reproach to Scotland that she had failed to record a full testimony to apostolic descent and diocesan episcopacy; and it was even held that later writers of history should have done more than they had done to keep the world right in this particular, and protect the Church from anarchical attacks.[1] On either side there was the deficiency in

[1] The sincerity of Bishop Spotswood cannot be questioned; but his handling of this matter in his History of the Church and State in Scotland was too lukewarm to satisfy his brother Bishop Lloyd of St Asaph, who administers to him the following highly characteristic rebuke:—

"How far their authority hath gone in that nation, we may judge by what we see in Archbishop Spotswood's Church History. We cannot have the least doubt of the judgment of that most worthy and reverend prelate, since he hath so fully declared it in the solemnest acts of his life: it is in his last will and testament that he gives this account of himself to posterity; as touching the government of the Church, I am verily persuaded that the government Episcopal is the onely right and apostolical form. And yet, in the book above mentioned, he doth unawares (as far as I can judge) yield that which affords to our adversaries a great presumption against Episcopal government. I say he doeth this unawares; for it is plain that he designed to write a history, onely of such things as had past since the Reformation. He did not trouble his head to search into the original of the Scotish Church: but as to that, he contented himself to deliver those things which were the opinion most commonly received. And yet, in following the received opinion, he must needs bar himself from any way to answer the before-mentioned argument against Episcopacy. For the same authority that there is for the being of a Church there in Scotland from King Donald's time (that is, from the year 203, as he places it), the same authority there is for a Church that was governed so many ages together by monks and pres-

honesty peculiar to such debates; and the reader of them is ever apt to find himself in a quicksand of misquotation or misuse of terms. This is exemplified on

byters without bishops. This he found when he came to that part of his History where his authours lay it before him in the terms that I have written. And therefore he makes them such an answer as I do not think it worth the while to repeat. Howsoever he might satisfy himself with it, I do not doubt but his Presbyterian countreymen looked upon it as a very unsufficient answer, and amounting to little less than a confession that their Church was first planted, and so long continued, without bishops. In consequence whereof, they might reasonably conclude, that when they covenanted against Episcopacy they had onely used their own right; and thrown out that which was a confessed innovation, in order to the restoring of that which was their primitive government."—Historical Account of Church Government as it was in Great Britain and Ireland when they first received the Christian Religion (Preface).

To find the adversary driven to such a line of argument as the following was delightful to the advocates of Culdee Presbyterianism:—

"Thus when King Oswald, becoming a Christian, desired to have a bishop from Hy, to plant a church among his Northumbrians; first, they sent him one, that was ordained perhaps onely by the Bishop of Hy. When he could not agree with his people, he therefore returned back to his monastery; where, having in a council of the seniours given an account of his ill reception, Aidan being then present, and discoursing well of the matter, all the seniours pitcht upon him: and judging him worthy to be a bishop, they decreed that he ought to be sent: it follows that so they ordained him, and sent him. Then at least there were present two bishops for Aidan's ordination; and if the see of Dunkeld was then founded, as old writers tell us, the bishop of that place might make a third: or there might be some other, of whom Bede had no occasion to tell us; for he could little think that ever it would come to be a question, whether Aidan were ordained by bishops or by presbyters.

"But that Aidan was ordained there at Hy, Bede plainly saith in these words: King Oswald desired to have a bishop sent to him, and he received Bishop Aidan; and again, Bishop Aidan came to him; again, Aidan was sent from Hy to convert the English, having received the degree of Bishop in the time when Segenius abbat and priest was over that monastery. By the way, this Segenius is Seginus in other copies, which is nearer to Segianus before mentioned. And that this ordination was into a higher order than that of presbyters, it sufficiently appears by divers things that we reade of in Bede's History; as, namely, that he chose the place of his episcopal see in the Isle of Lindisfarn; there he was with his clergy, and there was the abbat with his monks, who all belonged to the care of the bishop. For his clergy, he had divers persons

the one side in the use of the term bishop, where that term is left blank in the old authority; while on the other side of the controversy there was a free mixture of the fabulous history of Scotland with the small morsels of authentic record preserved to us. This controversy was of long life, and has not yet died among us. It has moderated down, however, and a comparison of the books bearing on the controversy will show a diminution of acerbity and dogmatism even within the present generation.[1]

that came with him from Hy; of them probably were his chaplains that went about with him, of whom one is called presbyter suus, his domestick chaplain; and one or two clerici sui, his presbyters in King Alfred's translation; beside these, there were many presbyters that came out of Ireland, who preached and baptised; and so churches were built in many places throughout his diocese. Next, for the extent of his diocese, it was as large as Oswald's kingdom of the Northumbrians; and particularly, where the king had a town, there he had a church, and a lodging. For a nursery for his clergy, the king gave possessions and territories for the founding of monasteries; at one of these, which was Heortea, he consecrated Hern abbess. And no doubt he ordained men of all orders, to fill up his clergy where there was occasion, as well as his successours did, as I shall shew; and governed them and his flock as long as he was bishop, which was for seventeen years, even till his death. All which time, Bede calleth him Bishop Aidan, as oft as he mentions him. And as more than once he gives him an excellent character for the good he did, and spends some whole chapters in giving account of his miracles; so he dislikes nothing in his whole conduct but his not keeping right Easter: and saith, for all that, he was not onely in communion with the bishops that came from Rome; but as, while he lived, he was deservedly beloved by them, and was had in veneration by the Archbishop of Canterbury, and the Bishop of the East Angles, so after his death he was accounted a saint by them of the Roman communion. This sufficiently sheweth that they did not take him for an intruder into their order, but were very well satisfied with his ordination."—Ibid., p. 103-107.

[1] Compare, for instance, 1st, 'An Historical Account of the Ancient Culdees of *Iona*, and of their Settlement in Scotland, England, and Ireland,' 1811, by John Jamieson, D.D., the celebrated author of the Scottish Dictionary; with, 2d, 'The History of the Early Church of Scotland,' by the Rev. Thomas M'Lauchlan. To find how the question may be

While the controversy about them has thus quieted at home, the cause of the Culdees has been taken up abroad as that of a true evangelical church doing battle with Rome. In Germany especially this idea has been embodied in a very complete and picturesque epic. St Patrick, a native of the Christianised Roman province of Scotland, is carried in his youth a slave to Ireland. There, though previously indifferent, he becomes regenerate, and in the spirit of his new life resolves to do his Master's work among the heathen people.[1] To these he carried the doctrine of the Cross in its primitive simplicity, ere it had been defiled by the handling of Scarlet Rome. In the days when the Empire was desolated, that Church, so planted in the remote and sheltered western world, grew and flourished strong in its purity. In Columba it repaid to Scotland the precious gift which had been received from that neighbour. As Rome was accomplishing her spiritual dominion, and driving furth from Christianity its scriptural simplicity, the united Church of the Scots spread itself abroad, fighting the battle of the gospel in every European land, and carrying battle to the very gates of Rome. Such was the attitude of the Culdees down to the eleventh and even the twelfth century. It was a goodly picture, completed by the perfection in which they preserved the form and preached the doctrines of

treated by a zealous friend of Episcopacy, reference may be made to the 'Ecclesiastical History of Scotland from the Introduction of Christianity to the Present Time,' by George Grub, A.M., 1861, a work full of the valuable results of diligent research.

[1] Handbuch der christlichen Kirchen-und Dogmen-Geschichte fur Prediger und Studirende, von Dr Joh. Heinr. Aug. Ebrard, p. 394. This writer gives St Patrick the peculiar name already referred to, vol. i. p. 73, "Succath auch Patrik genannt."

a pure evangelical church, resting on the Bible, and the Bible solely.[1]

To complete the grouping on the canvass, however, three elements had to be brought from a distance and

[1] "Before we trace the progress of the Culdee Church, let us look at its inner nature and outer organisation. Its inner nature gives it a full right to be called an evangelical church, not only because it was free from the power of Rome, and always showed a determination, whenever the Roman Catholic Church came in contact with it, to appeal from the authority of Rome to the Holy Scriptures as the only *supreme* authority, but, above all, because its inner life was penetrated and stimulated by the form and substance of the evangelical church. The Culdees read and understood the Bible in the original tongue, and as far as in them lay they translated it into their native language, and sometimes by word of mouth and sometimes by writing, explained it to the community, and made them go through a course of diligent and regular Bible-reading. The Holy Scriptures was to them no text-book containing a list of lawful doctrines, but the living word of Christ. They taught with all sincerity the innate sinfulness of the natural man, the reconciling death of Christ, the justification without any aid from works; above everything, the worthlessness of all outward works, and regeneration as life in Him who died for us. The sacraments were to them signs and seals of the one grace through Christ, and as such, held only a second place in their doctrine. Neophytes were baptised after a thorough instruction and sure signs of conversion. Into the catechising classes they seem to have received by laying on of hands those heathens willing to be converted. They did not acknowledge transubstantiation with regard to the Holy Eucharist, had no masses for the soul, did not acknowledge the existence of a purgatory, never invoked saints, had no pictures in their churches (only simple unadorned crosses, which they were particularly fond of erecting in the open air); the singing during divine service was conducted in the native language of the country.

"As far as regards the organisation of the Culdee Church and the rules of their communities, they certainly had not the degrees of rank found in the Romish hierarchy, bishops, priests, and deacons; but only the distinction between the ordained presbyters and the unordained *fratres* (members of the community). By baptism one would become a *frater* or *soror;* by ordination (which required a tonsure, not in the form of a crown, but the laying bare the front half of the top of the head) a presbyter. Besides this they had also deacons in the biblical sense—namely, *fratres, eleemosynas facientes,* and *præpositi,* or the teachers and superintendents of schools and educational institutions. If a new community had to be founded, a presbyter well trained in doctrine and in knowledge was sent out as *pater* or *abbas* along with twelve *socii*

carefully adjusted to a harmonious whole. The first was the simplicity of the Columbite Church in Iona, such as we have seen it. The second was the Culdees continuing this simplicity down to the twelfth century,

the most of whom were only *fratres* and the rest *presbyteri;* on a suitable spot they founded a settlement (cœnobium). A wall surrounded the whole; in the midst stood the church, built of plain wood (oratorium), with a stone belfry; all round separate huts for different families, for the *presbyteri* were generally, as of course the *fratres* were also, married men. The abbot with his twelve *socii* cultivated a piece of land, and by agriculture (in which, as in all, even the hardest work, the abbot assisted), fishing, and killing game, they obtained their necessary though often scanty means of subsistence. Their drink, besides water, consisted of beer, which they brewed themselves. They now worked at the souls of their heathen neighbours, going about among them preaching salvation through Christ. The children who were given into their charge they received into their schools, those of their neighbours who were inclined to be converted had a benediction pronounced on them by the laying on of hands, and from henceforward they joined in divine worship and in the catechising classes. These families of catechumens settled round the station, and stood in classes under the superintendence of the *præpositi.* Those who were baptised were received into the interior of the settlement with their wives and children. Over the whole settlement (*plebs*) was the abbot, episcopus, or superintendent. If other communities formed round, the whole diocese (Sprengel) came under the direction of the cœnobium, so that either the abbot himself was its *episcopus* (abbot-bishop), or else he gave over into the hands of one of his *fratres presbyteri* as an '*episcopus*' the spiritual superintendence of the diocese, so that such an *episcopus* was under the authority of the abbot-presbyter. One can see that 'episcopus' among the Culdees represented no *gradus ordinis* (at least a higher rank than that of presbyter), but (like the *abbas*) only a function, or office."—Ebrard, Handbuch, p. 396-99.

See this of their doctrine more fully gone into in a series of papers by the same author in the Zeitschrift fur die Historische Theologie for 1863. In the second part, on the Religion and Theology of the Culdees, we find:—"It must not be forgotten that the Culdees had been already engaged in a renowned contest with the Papal throne and the Papal Church; and in point of fact the manner in which they constantly summon the Holy Scriptures as the only paramount authority to stand in judgment between the conflicting traditions of individual churches, and the way in which they hold fast the Bible as in itself distinct and self-expounding, superior to every interpretation grounded upon the opinion of the Papal throne, entitles us doubly to consider them as forming an evangelical church. When Columba the younger proclaims to Pope Bonifacius, that

as shown in their opposition to or evasion of episcopal control. The third was the existence throughout Europe of a large body of ecclesiastics at war with the Romish hierarchy; and as these are known in ecclesiastical history as Scots, it follows that they were Culdees. We have already seen, however, that a long period of darkness lies between the Columbite Church and the Culdees. Whether it conformed to the Catholic model or not, the practice of the older Church was very strict; that of the later was, on the other hand, vague and loose. That the Culdees were bad Papists may be clear enough; but it must not be held to follow that on that account they were good Protestant Evangelicals.

At the time when St Margaret's sons were bringing the Culdees to Catholic unity, Scots ecclesiastics swarmed over the Continent. Besides the great establishments of Ratisbon and St Gall, there were countless religious houses in their hands.[1] It is no doubt true that they had practices of their own, were self-opinionative, and drew many testimonies of dis-

whosoever teaches a doctrine differing from that taught by the Apostle Paul, he shall be anathema, even although he be the Pope, *nullus enim ad injuriam Dei hominem honorare debet*, he has hold of the fundamental principle of the whole Reformation. The right of refusing obedience to the servant in order to obey the Master is here sharply and expressly declared; and it is certainly a remarkable coincidence that the first kindling of the Reformation in Wicliffe was connected with the last remains of the scattered Culdee Church."—P. 326.

These papers by Dr Ebrard contain an elaborate disquisition on the variations of the holding of Easter, already referred to (chap. viii.); and also an account, coming into much later times, of the prevalence of the Irish wandering ecclesiastics on the continent of Europe.

[1] Of these wandering ecclesiastics, already referred to (chap. v.), an abundant account will be found in Lanigan's Ecclesiastical History of Ireland. That author gives his own country its own at least. In the 'Historia Ecclesiastica Gentis Scotorum' of Thomas Dempster they are all set down as natives of Scotland.

satisfaction from the more obedient members of the Church Catholic.[1] But the testimony and habits which provoked these attacks were not always of a kind that would excite the sympathy of the evangelical communities of the present day. They are chiefly directed against those whom they call the vagabond Scots bishops, who intrude into the provinces of their legitimate diocesan brethren after the fashion already referred to.[2] It was difficult to rescue their memory from the charges commonly made against the adherents of the old Church, as that they paid their devotions before pictures and images, and invoked the intercession of saints. These Scots clerics, far from abjuring reliquaries, were known over the world for the indiscriminate rapacity with which they gathered bones, rags, and other articles offered to them as sanctified. On some of these matters the annals of the early Scots saints had to be afterwards corrected, so as to give reliquaries and other institutions of the Church their proper influence.[3] From historical conditions already gone over, it will be inferred, that whatever were the doctrines or the ecclesiastical discipline of these wandering Scoti or Scots, they did

[1] For collective specimens of these criticisms, see Selden's Preface to the Decem Scriptores of Twysden, xiii. *et seq.;* and Reeves's Ecclesiastical Antiquities of Down, Connor, and Dromore, p. 134.

[2] Chap. iv.

[3] In the earliest biography of St Patrick, the well-known Confession, there is a deficiency in the article of relics filled up by the later lives of him, which tell us how, in one of his journeys to Rome, while the custodiers of the sacred relics were asleep, he (St Patrick) managed to pilfer a great many valuable articles, conspicuous among which were a piece of cloth stained with the Saviour's blood, and a lock of the Virgin Mother's hair. St Patrick was highly commended for this feat as a fair stroke of patriotic diplomacy in favour of his Irish Church.—Sept. Vita, Colgan, p. 164.

not come of the ordinary Scots folk who made the later history of the country. They were still in fact Irish. Possibly some of them may have been Celts of the Western Highlands of Scotland, but this is unlikely, as the descendants of the Dalriadan colonists, who had there, some centuries before, been a superior and a governing race, were then far below their Saxon or Teutonic neighbours of the eastern plains, who had burst in upon their old civilisation. Among these it is likely that we would find the comfortable Culdees, with their secularised granges, rather than the vehement enthusiasts who made the Scots ecclesiastics formidable on the Continent. Asceticism, restlessness, and an ardent missionary spirit, seem not to have been among the characteristic failings of the Culdees. On the whole, it would seem that Scotland would require to decline the homage paid to her as a lamp radiating the light of the gospel through the dark ages—a centre whence a crowd of witnesses was dispersed to raise the testimony against the great apostasy.

Let us return to the ecclesiastical revolution, revival, or whatever it may be called, which left the Culdees as a tradition of a church degenerate. For some time after they were doomed to extinction we hear of them, but it is chiefly in the record of their struggle for existence with the new system, which sought conformity with the Papal hierarchy as established in the rest of Europe. This contest went on jointly with efforts to recover for spiritual uses the lands that had been alienated. In several instances the fraternities were found easily convertible into Canons regular of the Augustine rule. When a bishopric grew up among them, as in St Andrews and Dunkeld, they were found

to be good material for conversion into chapters of secular canons, and filling prebendaries and other appendages of cathedral organisation. In these instances their abbot generally lost his rank; but when he was virtually a layman, he was glad to compound for the retention of a share of his rents. In some instances the brethren existing at the time of the revival were allowed a life-interest in their honours and emoluments, which passed into the hands of the remodelled institutions as they dropped off. In other instances they were tolerated on the condition that, though they remained in name Culdees, they should conform themselves to the restraints of the regulars, and with these the special name gradually died out with the change of practice. Through all the efforts to get rid of them, however, whether by coercion or diplomacy, the fraternities showed a tenacious vitality, which, in the ecclesiastical records, protracts the traces of their existence, and even their activity, down to the fourteenth century.[1]

The division of Scotland into parishes appears to have been articulated out of the influence of the revival on

[1] Dr Reeves gives us the following animated account of the contest between the two systems, as it was fought out at the headquarters of St Andrews:—"We learn that, at some period anterior to 1107, the ecclesiastical community of Cill-Righmonaigh had become parted into two sections, and that each carried with it a portion of the spiritualities and temporalities, which we may reasonably conceive had been originally combined. One party was the Keledei, consisting of a prior and twelve brethren, who numerically represented the old foundation, and as clerical vicars performed divine service, having official residences, and enjoying certain estates as well as the minor dues of the sacerdotal office. With them also, as the clerical portion of the society, rested the election of the bishop, when a vacancy occurred in the see. The other party included the bishop, the eleemosynary establishment, and the representatives of the abbot and other greater officers now secularised, yet enjoying by

the old endowments. Strangers from the south—Norman and Saxon—came then crowding into Scotland; and as they received grants of land, following the practice at home, they dedicated a portion to the Church. The old Church of the Culdees, which had been already established on the land, or the new Church which the landlord endowed there, was territorially connected

prescription another portion of the estates and the greater ecclesiastical dues. The chief censure is directed against these; but it is to be taken with some limitation, because the bishop was one of them, and the hospital represented another.

"In 1144, the hospital, with its parsonage or impropriation, was transferred to the regular canons, and they were confirmed in the possession of two more of the parsonages which had already been assigned to them, the bishop retaining his own seventh, thus leaving three of these sinecures in the former condition. And matters continued so till 1156, for in that year Pope Adrian IV. only confirmed to the canons regular the hospital and their two-sevenths. But in that or one of the two following years, the old impropriators having probably dropped by death, resignation, or amotion, Bishop Robert granted to the canons all the portions, reserving only his own. Finally, in 1162-3, Bishop Arnold surrendered his seventh, and thus put them in possession of the whole. The seven portions were then consolidated, and went into a common fund. Thus, in the first instance, the regular canons seem to have been established on the reversion of the secularised property of the old foundation.

"There were now two rival ecclesiastical bodies in existence at St Andrews—one the old corporation of secular priests, who were completely thrown into the shade, and shorn of many of their privileges and possessions; and the other, that of the regular canons, who virtually represented the secularised portion of the old institution, and entered on the enjoyment of their estates. But this rivalry or coexistence was very distasteful to the chief authorities, both lay and ecclesiastical, as soon became manifest. Immediately upon the foundation of the latter house, King David, as he also did in the case of Lochleven, made an ordinance that the prior and canons of St Andrews should receive into incorporation with them the Keledei of Kilrimont, who were to become canons, together with all their possessions and revenues; that is, provided they would consent to conform to canonical rule. But in case they should refuse, they were to have a life-interest in their possessions; and, according as they dropped, their places were to be filled up on the new foundation by regular canons, whose number was to equal that of the existing Keledei; and that all the farms, lands, and offerings of the Keledei should be

with his possessions, and these gradually resolved themselves into a parish, of which it was the church. But besides a specific endowment in land, it was one of the features of the revival to promulgate the principle of the old Jewish law, which gave the clergy a tenth of all produce; and thus the granting of tithes out of the estate or parish became prevalent, and from

transferred to the use of the canons of St Andrews in frank and quit almoigne. In 1147, Pope Eugenius III. decreed that thenceforward the places of the Keledei, according as they became vacant, should be filled with regular canons. But the Keledei were able to withstand the combined efforts of king, pope, and bishop; for we meet with a recurrence of this provision under successive pontiffs till 1248; and yet we find the Keledei holding their ground. Nay, in 1160, King Malcolm actually confirmed them in a portion of their possessions. In 1199 we find them engaged in a controversy with the prior of the other society, which terminated in a compromise by which the tithes of their own lands were secured to them, they at the same time quitting claim to all parochial fees and oblations. They were also vicars of the church of the Holy Trinity of Kilrimund, which was the parish church of St Andrews. And it was not till 1273 that they were debarred from the prescriptive right to take part in the election of a bishop. They met with like treatment in 1279, and again in 1297, when William Comyn, the provost of the Keledei, went to Rome, and lodged a protest against the election then made, on the ground of their exclusion; but Boniface VIII. decided against him. He appealed again in 1328, but with no better success. In 1309 the Keledei were still in possession of their lands in the Cursus Apri. In 1332, when William Bell was chosen bishop, they were absolutely excluded from taking any part in the election, and the claim does not appear to have been ever after revived. Neither does the name Keledei occur again in existing records, although the corporation still continued in the enjoyment of their privileges and possessions. In the succeeding centuries frequent mention is made of the institution under the names of the 'Præpositura ecclesiæ beatæ Mariæ civitatis Sancti Andreæ,' the 'Ecclesia beatæ Mariæ de Rupe,' and 'the Provostry of Kirkheugh;' and the society is said to have consisted of a provost and ten prebendaries. Their superior was variously styled 'Præpositus Sancti Andreæ,' 'Præpositus capellæ Sanctæ Mariæ,' 'Præpositus capellæ regiæ:' and the common seal bears the legend—S. CAPITVLI ECCLESIE SANCTAE MARIAE CAPELLAE DOMINI REGIS SCOTORUM. After the Reformation, the provostry became vested in the Crown; and in 1616 was annexed, together with the appendant benefices, to the see of St Andrews."—Culdees, 38-41.

being prevalent as a gift, merged into practice so general, that the Church at last claimed its enforcement as a right.[1]

The eminence and power of some of the Culdee fraternities presented in some places the materials from which bishoprics might be conveniently constructed and supported. Dunkeld, as we have seen, was so important as to afford an office worthy the acceptance of royalty. Succeeding in some measure to the position of Iona, it became a sort of metropolitan abbacy in Pictland, and thus easily merged into the head of a diocese. We have seen that King Constantine in his old age became abbot of the fraternity of Culdees in St Andrews. He had then, probably, a more luxurious, and certainly an easier, life than any one at that time

[1] See Innes's Sketches of Early Scotch History, chap. i.:—"Take as an instance, where we see the whole causes in operation, the parish of Ednam in the Merse. King Edgar, the eldest brother of David I., bestowed upon Thor, an Englishman, the land of Edinaham (*the home on the river Eden*) unsettled (*desertam*). Thor, who was called *longus*, a tall man of his hands, with the king's assistance, but with his own money, cultivated and settled that desert. It became his manor, and there he erected a church—*ecclesiam a fundamentis fabricavi*, says Thor, in his charter. The king and Thor together endowed the church with the customary ploughgate of land, and dedicated it to their honoured patron Saint Cuthbert. The church of Ednam next obtained the tithes and dues of the manor; and then it became an object of desire to the monks of Coldingham. The kings of Scotland of that family were in an especial manner devoted to Saint Cuthbert, and nothing was to be refused that could obtain the donor a place in the *Liber Vitæ* of the convent. Accordingly, Thor, for the weal of King Edgar's soul, and the souls of Edgar's parents and brothers and sisters, and for the redemption of his own beloved brother Lefwin, and for the weal of his own soul and body, gave to Saint Cuthbert and his monks of Coldingham the church of Ednaham and the ploughgate of land with which it was endowed by him and King Edgar. . . . .

"In the beginning of the twelfth century, Wice bestowed on the monks of Kelso the church of his manor of Wicestun (Wiston) with its two chapels—namely, that of the 'town' of Robert, brother of Lambin,

calling himself King of the Scots could hope for. His rank gave dignity to the wealthy institution, and prepared it for becoming the seat of a bishopric.

King Alexander resolved to adjust this bishopric with great exactness to the Catholic system prevalent over the rest of Europe, and sought assistance from England in carrying out this project. He found himself thus involved in disputes distracting and inexplicable; but before we enter on them it is right to keep in view, for the avoiding of erroneous inferences, that the relation to each other of the crowns of England and Scotland was at that time very cordial. In the practical adaptation of the revival by the reconstruction of old religious establishments and the founding of new, the example of England was implicitly fol-

and the chapel of the 'town' of John, stepson of Baldwin. A third chapel sprung up afterwards within the bounds of this manor of old Wice, which was situated on the land of Simon Loccard. In the next century, all these chapels acquired independence and parochial rights by steps which may be easily traced, and from them have arisen the existing parishes of Roberton, Crawford John, and Symington.

"In the year 1288, the Knights Templars obtained the privilege of an independent chapel for their lands in the parish of Culter on the banks of the Dee, chiefly on the ground that their people were separated from the parish church (the property of the monks of Kelso) by a great river without bridge, which they could rarely cross, and were thus deprived of the rites of the Church, to the great peril of their souls. The chapelry soon rose into a separate parish, and in this transaction we have the origin of the parishes of Peter Culter and Mary Culter, separated by the Dee.

"The parish of Glenbuchat owes its erection to a tragical incident. Its separation from its parish church of Logy Mar, by high hills and streams subject to frequent floods (*propter pericula . . . inundationibus aquarum infra terram inhabitabilem in monte et deserto*), had long been felt a grievance. But at length, on an occasion when the people of the glen were crossing to celebrate Easter in the church of Logy, they were caught by a storm in which five or six persons perished. The bishop thereupon issued a commission for arranging the separation of Glenbuchat, and endowing a resident chaplain."

lowed, and no models farther off were sought.[1] The state followed English precedent as eagerly as the Church. The staff of officers surrounding the throne, the administration of justice, the architectural styles, were all, as we shall see afterwards, adjusting themselves to the English practice. Then as to the personal relations of the sovereigns—King Henry, as we have seen, was married to a daughter of Queen Margaret, and he gave his own daughter Sibilla to Alexander of Scotland as his wife. She is called an illegitimate daughter, but this did not justify—as such a disposal a century or two later might—the inference that she could only appropriately be the wife of a person in a grade below that of her father. The difference in degree that would have made her so was, in fact, one of the triumphs which the Church had as yet not achieved either in England or Scotland. The object of these explanations is to fix the impression that the disputes about the bishopric of St Andrews had no connection with the questions about the supremacy of the English over the Scotch crown. The disputes concerned matters entirely ecclesiastical, and

[1] "Of the Scottish sees, all save three or four were founded or restored by St David; and their cathedral constitutions were formally copied from English models. Thus the chapter of Glasgow took that of Salisbury for its guide. Dunkeld copied from the same type, venerable in its associations with the name of St Osmond, whose Use of Sarum obtained generally throughout Scotland. Elgin or Murray sent to Lincoln for its pattern, and transmitted it with certain modifications to Aberdeen and to Caithness. So it was also with the monasteries. Canterbury was the mother of Dunfermline; Durham, of Coldingham; St Oswald, at Northill, near Pontefract, was the parent of Scone, and, through that house, of St Andrews and Holyrood; Melrose and Dundrennan were daughters of Rievaux, in the North Riding; Dryburgh was the offspring of Alnwick; Paisley, of Wenlock."—Article on Scottish Abbeys and Cathedrals, Quarterly Review, June 1849, p. 117.

they arose out of this, that the sons of St Margaret, desirous to introduce Popish Catholicism, found that it came in upon them more readily and thoroughly than they either anticipated or found to be agreeable.

When Alexander set about adjusting the bishopric of St Andrews to the Catholic system, he desired to confer it on his mother's confessor and biographer, Turgot, a monk of Durham. For his consecration he looked to the ecclesiastics of that district, his own neighbours. There was a bishop of Durham and a primate of the north at York. These both belonged to that great district of contest between the Humber and the Tweed, which had belonged neither to Scotland nor to England, and was yet hardly consolidated into the Anglo-Norman kingdom. The King of the Scots generally had possessions or claims connected with it, and, ecclesiastically, it might be considered the offspring of the Scotch Church, for St Cuthbert's monastery of Lindisfarne had been its original ecclesiastical centre, and that, as we have seen, was the creation of a missionary from Iona. St Cuthbert himself had been a monk of Melrose, over which the authority of the King of Scots was at least as firmly settled as that of the King of England in York or Durham.

Any spiritual assistance received from such a quarter looked like a requital of old services, and could not naturally be interpreted into a foundation of supremacy either clerical or territorial. Of the latter there does not seem to have been any dread; but from the active state of the Popedom at that time there was considerable risk that any great endowment placed on the Catholic standard might belong rather to the Bishop of Rome than to the King of Scots or the national

Church, and the claim that must lead to such a conclusion was made with promptitude and vigour. The Archbishop of Canterbury dared his brother of York to consecrate any bishop in Scotland. That bishop required consecration himself, indeed, and should go to Canterbury for it. He claimed to be the head and representative of religion over all Britain. Pope Gregory had conferred that right on his predecessor, Augustine, who, by the traditions of the Church, was a bishop as well as a missionary, and had obtained the supremacy in Britain from the only source whence it could be communicated—from the representative of St Peter.

It was not the policy of King Henry to back this assumption. In fact, while the Court of Rome liked to have as few metropolitans as possible to deal with, most temporal monarchs desired to have at least two in their dominions, that each, in seeking his own aggrandisement, might prevent the other from being too strong. Both in England and Scotland the monarchs were finally successful in this policy. In the mean time, however, the pretensions of Canterbury were a troublesome impediment to Alexander's projects. In the difficulties of the case it was proposed at one time that the Bishop of Durham, along with two Scotch bishops, or a bishop from Scotland and one from Orkney, should make the three bishops necessary for Catholic consecration; but it might very well be questioned whether two assistants could in this manner be found whose own title would bear scrutiny according to the apostolic system. In the end it appears that the Archbishop of York presided at the consecration, with a reservation of all questions. Turgot does

not appear to have found himself comfortable in the dignity with which it was so difficult to get him legitimately invested. He proposed, it is said, to go to Rome for a solution of all difficulties; but if he so intended, he died in 1115, before beginning his journey.

Five years passed before the king set himself to the difficult business of getting a bishop for his pet diocese of St Andrews. He held communication with the Archbishop of Canterbury, proposing to advance to the dignity a distinguished monk of Canterbury named Eadmer, celebrated as a chronicler of contemporary events, and especially for his affectionate tribute to the memory of his patron, Archbishop Anselm. King Alexander might have had suspicions had he known how great a state affair was made in England of the request to send him a monk who would make a suitable bishop. Archbishop Ralph wrote to King Henry explaining that the King of Scots, with the consent of the clergy and people of his kingdom, had sent ambassadors earnestly desiring counsel on the adjustment of the pastoral relations of the church of St Andrews. He proposes to send over Eadmer, but desires to be fortified by the royal approval. This is given in the briefest terms. He is told that he may send the monk the King of Scots asks for, and give him freely to be dealt with by the customs of the country he is going to. The archbishop had no doubt his special reasons for bringing the matter under royal notice. We can only see now that he was thus making preparation for giving great importance to any questions that might arise out of the negotiation. He sent Eadmer northwards with a recommendatory letter to the King of Scots, which said nothing to him about King Henry

having been consulted, and, indeed, buried all practical details under a mass of ecclesiastical eloquence down to the end, for which a sting was reserved in the recommendation that, whenever the election was completed, Eadmer should be sent to Canterbury for consecration.

Eadmer himself provides us with a pretty ample account of the affair.[1] It may be almost questioned whether we are fortunate in receiving these details from one so closely interested in the negotiation about the Scottish bishopric, since they are, in a great measure, the querulous personal explanations of a man disappointed through his own blunders, and thus tend somewhat to obscure the larger questions at issue. If the monk of Canterbury was chosen for the purpose of propitiating the archbishop, to all appearance the perplexed king could not have made a more unfortunate choice. He found that he had brought over a devotee of the British primacy of St Augustine's successor, who, indeed, boasted that for the whole kingdom of Scotland he would not give up his position as a monk of Canterbury. In the end Eadmer returned to his cell. Something seems to have whispered to him, however, that he had missed a great opportunity. He offered to return to the bishopric, explaining, with a good deal of phraseology, that he had been mistaken in his notions of duty as a bishop in Scotland. He was backed by his archbishop, who bullied somewhat on his behalf, saying that, having been elected to the see, though not consecrated, what was done could not be recalled, and no other person could fill his bishopric. Another, however, was appointed to it in the year 1124—a certain

[1] Eadmeri Monachi Cantuariensis Historiæ Novorum sive sui Sæculi.

Englishman named Robert, prior of the new fraternity of canons regular at Scone.

King Alexander did not live to see the difficulty of his consecration overcome. The matter stood over until the year 1128, when the Archbishop of York presided at the ceremony. It was an express condition that all claims of the archbishopric of York and rights of the bishopric of St Andrews should be reserved.[1] Eadmer, in his lamentations over his own perplexities, lets in a little light on the secret of this reservation. He makes it visible that his hopes of a Canterbury consecration were considerably elevated by finding King Alexander, and the Scottish clergy with him, disinclined to a consecration from York. In fact, that primate had thrown out the view that consecration from him must carry with it ecclesiastical dependence on him, so that the see of St Andrews would stand to that of York in the position of Suffragan to Metropolitan. No precedent could be pleaded for this, nor was it directly urged on the side of York in the shape of a demand that the new bishop should come thither for consecration. The archbishop acted as persons in office have done ever since, and do now, when they grasp at power for their office which they profess not to want for themselves. They will not urge claims, but they cannot abandon anything that can possibly be claimed, lest they do prejudice to the office and the position of their successors. Hence, while the king and the clergy merely desired that spiritual ceremony which would canonically connect the new bishop with the Catholic Church, the Arch-

[1] "Salva querela Eboracensis Ecclesiæ et justita Ecclesiæ Sancti Andreæ."

bishop of York was loath to abandon any claim of supremacy that might be founded on the service done. Eadmer, in his wailings, mentions that on this matter he had got the views of a certain Nicholas, who must have been a man of importance, since he offered to adjust the difficulty at the Court of Rome, and get Eadmer consecrated by the Pope himself. Whatever reliance this offer may be worthy of, some remarks given in name of this Nicholas are curious and important, even should they never have been uttered by him, but imagined or invented by Eadmer. He observes that York, seeking a metropolitan presidency over St Andrews, would be equivalent to a claim on the part of a prelate of England of primacy in another kingdom — a thing unheard of. Had the questions about the feudal supremacy of England been then part of the current politics of the day, it would have rendered such a supremacy by no means preposterous; it certainly would have in some measure influenced the dispute.

It will be seen from this narrative that King Alexander laboured hard in the endowment and Catholic revival of the Scots Church, for which his younger brother chiefly gets credit. The chroniclers give us a characteristic episode in his personal history connected with one of his endowments. Being with his train of attendants beset by a storm in the Firth of Forth, he was glad to seek shelter on the small island called Inchcolm, near Queensferry. Here he found, serving in a cell dedicated to St Columba, a hermit who lived on the milk of a cow and the shellfish cast on the beach. The king had to live three days on this moderate fare, and, in expression of his thankfulness,

he founded on the island a monastery of canons regular, dedicated to St Columba. With the assistance of further benefactions the comely structure was afterwards raised, of which the ruins may yet be seen in a more complete condition than those of many of the more illustrious of the ecclesiastical edifices of Scotland.

CHAPTER XIII.

Narrative to the Treaty of Falaise.

ACCESSION OF KING DAVID—THE CONDITION OF HIS KINGDOM—THE OUTLYING DISTRICTS—GENEALOGICAL INFLUENCES—CONNECTION OF THE SCOTS AND ENGLISH ROYAL FAMILY—KING STEPHEN AND MATILDA—NORMAN TYRANNY IN ENGLAND—CASTLES AND FOREST-CLEARINGS—EFFECT OF WITNESSING THE CONDITION OF ENGLAND FROM THE SCOTS SIDE—NO NORMAN CASTLES IN SCOTLAND—INVASION OF ENGLAND—THE BATTLE OF THE STANDARD—ITS HISTORICAL CHARACTER AS AFFECTING THE RELATIONS OF THE NORMANS WITH THE OTHER RACES—KING DAVID'S SERVICES TO THE CHURCH—FOUNDATION OF RELIGIOUS HOUSES—PROGRESS OF THE CATHOLIC REVIVAL—THE SANCTITY ATTRIBUTED TO HIM—OTHER OPINIONS HELD ABOUT HIS ECCLESIASTICAL MUNIFICENCE—HIS DEATH—HIS SUCCESSOR, MALCOLM IV.—CESSION AND ROUNDING OFF OF TERRITORY—RAID INTO ENGLAND—CAPTURE OF MALCOLM—TREATY OF FALAISE.

On Alexander's death in the year 1124, he was succeeded by his younger brother David, the third son of the Saxon princess St Margaret, who was Queen of the Scots.

Since the year 1108 David had been Earl or Lord of the Manor of Huntingdon in England, and this, which made the King of Scots an affluent English nobleman, with estates in the very heart of the dominions of the Norman kings, had a powerful influence on the subsequent fate of Scotland. This acquisition

was the result of his marriage with Matilda, the heiress of Waltheof, Earl of Northumberland. The territory between the Tweed and the Humber had now been feudally attached to the English crown, but it was not so firmly incorporated with the rest of the country as to render it desirable that it should be under the immediate authority of the prince who ruled in Cumbria, and was likely to become king of the Scots. It is not quite clear whether the manor of Huntingdon was a portion of Earl Waltheof's estates assigned to David, or was given to him as compensation for Northumberland. It is of more consequence to know that he frequented the English court among the other great nobles there assembled.

There were, no doubt, many attractions for him there. It is when we find such an influence acting in the more potent shape it assumed in Paris that we can see how much the destinies of nations must have been affected by the sovereigns of small states clustering round great luxurious capitals. Industry and wealth were then growing in Scotland, but the country had hardly yet a court, though the influx of Norman grandees setting in was likely soon to make one. The existing remains of buildings of the period in the two countries reveal to us the vast distance between the two kings in matter of state. We have still substantial testimony to the magnificence of the palace-castles built by the Anglo-Norman kings in London, Westminster, Oxford, and other places. There was nothing in Scotland, or for generations to come, like the White Tower or the Keep of Windsor.

While he yet lingered about the English court, David's power at home was again endangered by the troublesome

Maarmor of Ross, who marched through the country as far as Strickathrow, in Forfarshire, on the south side of the Grampians. The Constable of Scotland marched at the head of the royal troops. The name of this office occurs for the first time; it seems to have been newly imported from England, and it was held by a descendant of one of the southern strangers who had come to Scotland with St Margaret and the Aetheling. The Moray men were driven back to their own territory, and so hard pressed there that they gave up their Maarmor, Malcolm MacHeth; and so the insurrection —or rebellion, as it is generally called in history— was quenched by the apprehension of the chief traitor. David seems to have made a fairer estimate of his enemy's position than posterity, for he put him merely under restraint as a vanquished man. He tried to deal with the Maarmor's territory as a feudal forfeiture, and portioned it out in gifts to persons who were to hold them as crown vassals. Several of these were Norman strangers, and it was perhaps considered an ingenious policy to give the combative and aggressive adventurers a lot in a distant dependency, where they would have enough of occupation in holding their own. It was a policy likely to please the south, where the Norman pressure was beginning to be severely felt. To the north it cannot have been expected to give satisfaction; it is, indeed, probable that some previous attempt to establish these strangers there was the cause of MacHeth's rising.

We have now come to a period when the progress of feudal usages has made genealogy, and the personal positions arising out of it, of more importance as a key to the destinies of nations than it has heretofore been.

We have seen that the chief power in a district—call it throne, crown, or by any other name—often fell to that relation of the preceding holder who was strongest to take and keep it, and no complicated political organisation was disturbed by such a result. In the multitudinous dovetailing of the feudal system, however, many rights were affected by a change of lords. There were rights above and rights below and rights all around, and the effect of these was to bring by a sort of pressure the heir indicated by the established system of descent into his proper place. There were other forces at work, but this was the greatest; and, as we shall find, the liberty and prosperity of a nation might hang on the question, Who was the person that, by the recognised doctrine of succession, is nearest heir to the last ruler?

We have next to look at some critical events, partly dependent on genealogical conditions, partly on other political forces. We have seen that the sister of David of Scotland was the wife of Henry of England. They had a daughter, Matilda, known as the Empress Maud when she was the wife and widow of the Emperor Henry V. She was the only legitimate child of King Henry, and, according to the later rules of hereditary succession, was beyond any question heiress of the English throne. The rule had not yet, however, worked itself so clear of influence from the personal prowess and governing capacity of the heir to a throne, as to accept at once of a female sovereign. In many parts of Europe, and especially where the custom called the Salique law prevailed, women were entirely excluded from holding fiefs, as being unfit for the military service, which was the consideration rendered for the holding. With the

joint progress of civilisation and technical feudality, however, there came conditions in which an heiress was often more acceptable to certain persons concerned than an heir, and especially a collateral heir. He was probably a man in full manhood, prepared to make the most of the succession and hold his right against all comers. An heiress, on the other hand, was a positive prize to the feudal superior. He had "the casualty of her marriage." If he found it worth his while, he might attach her and her domain to his own family; if not, he could make a good bargain with the husband, who was to give military service for her fief.

Such considerations influenced the disposal of subordinate fiefs. They did not apply to a sovereignty, yet the spirit of the feudal system was uniformity, and whatever practice prevailed in one grade pressed for extension to others. In later times, and where a strong constitution has been established, the supreme sovereignty is precisely the succession among all others as to which it is of least moment whether it fall to a masculine or to a feminine heir. In the twelfth century, however, and indeed for ages to come, the laws of hereditary descent had not been so clearly ascertained, but that, in the disposing of the great prizes, much depended on the strong hand; and a king had to hold his own by courage and policy, however good his title.

Henry was very anxious that his daughter should succeed to his crown. In the year 1127 he took oaths of allegiance from all the persons nearest the throne, and from the great ecclesiastical and feudatory dignitaries, to stand by her as queen on her father's death. The particulars of the swearing-in are curious. David,

King of Scotland, had to swear as Earl of Huntingdon, and he was allowed precedence over all the others who came forward. This compliment was doubtless paid to him because of his rank as a foreign sovereign; peerage practice had not existed long enough to resolve itself into laws of internal precedence independently of external conditions. There was a competition for the next oath; it lay between Stephen of Blois and Robert of Gloucester. Stephen was the grandson of the Conqueror by his daughter Adela; Robert was the illegitimate son of Henry and the half-brother of Matilda. The decision was for Stephen; but although he had precedence by court etiquette, it might not of necessity have followed that the other must be behind him in any more serious competition. The Church had not yet done its work so effectually as to place an insuperable barrier between children born in wedlock celebrated by a priest according to the canon law, and the children of the same father by some other connection. In this instance, however, as it happened, the precedence at the swearing-in for the heiress Matilda alighted on that one of the two, so anxious each to be before the other in swearing allegiance, who was to take the inheritance to himself.

Oaths were at that time coming rapidly in vogue as a feature in feudal usage. They became very abundant and almost entirely useless. The feudal oath had in its original constitution a preservative against the exaction of unreasonable sacrifices. Whenever it came to the test of practical difficulties, it was found to have two sides. The vassal swore fealty, but this inferred protection by the lord paramount, and when that was wanting the vassal's oath was naught. The

romantic, or, as some would call it, the servile, notion that allegiance was due from subject to sovereign by divine right, and that it was to be all the more fervently offered as a religious obligation when the sovereign was dethroned and exiled, had not entered into the philosophy of that age. This was an invention of the clergy of the Tudor and Stewart dynasties, and was partly founded on the spirit of the Christian religion, which places devotion to the Deity beyond the influences of temporal conditions; and partly on notions which the Roman Empire had adopted from the East, and put very awkwardly in practice. Such notions were unknown to the twelfth and some later centuries, and nothing would have more astonished the parties to such oaths on either side than the hard names, such as traitor, perjurer, and the like, which have been wasted upon the persons who had to change their policy by a change in the conditions by which they were surrounded.

It is well known in English history that Stephen became king, or, as it is usually said, "usurped the throne." His accession was followed by a crisis both for England and Scotland. We know that after a time the Saxon race, through its native vigour, overcame the influences of the Norman Conquest, as in the individual man a healthy constitution works off the influence of a wound or a casual disease. At the period of Henry and Stephen the assimilation had not yet come, or even begun. The Conquest, as a subjugation not merely to a monarch but to a caste, had settled down upon the country, and was oppressing the people grievously. There was a protection in the Conqueror's strong hand and his stern administration of justice, but now

the throne was weaker, and the great barons were coming nearer to a rivalry with their sovereign. The alliance with the Saxon royal family had not as yet told on their influence—in fact, they had gained additional local power from a disputed succession. Thus the Saxon, whether a member of the old gentry or a mere churl, had a master at hand. The topography of England still attests the power of these lords, in the strong Norman castles with which they covered the country. These buildings in strength as far excelled the strongholds of previous races, as the bastioned fortress of the European engineer excels the hill-fort or stockade of any Oriental tribe. The aim of the older strongholds was defence against invasion, but the new fortresses were decidedly aggressive. Instead of seeking the hill-top or the wide swamp, where the people of the land might take refuge, the castle was planted in the heart of the fruitful territory of the new lord, that he might rule all around. Secure within its strong walls was the luxurious mansion where he lived at his ease and gave hospitality to his equals, and within the same impregnable barrier were the strong dungeons in which he wrought his tyranny.

The Saxon Chronicle is remarkable for the dry unimpassioned distinctness with which it tells the events of that stirring age, neither exulting with the conquering Norman, nor bemoaning the fate of the subdued Saxon. At one point, however, the narrator, as if unable longer to subdue his indignant spirit, lets it colour his statement of fact with bitter and eloquent invective. This is when he describes, as a feature of the times, "the castle works," which, when completed, were "filled with devils and evil men," who dragged into them

peasant men and women supposed to possess property, "and hanged them up by the feet, and smoked them with foul smoke. They hanged them by the thumbs or by the head, and hung fires on their feet; they put knotted strings about their heads, and writhed them so that it went to the brain." And after other forms of torture, told with like distinctness, the chronicler, afraid as it were to trust himself in longer dealing with such a topic, concludes: "I neither can nor may tell all the wounds or all the tortures which they inflicted on wretched men in this land; and that lasted the nineteen years when Stephen was king, and ever it was worse and worse." Men in those times died of starvation; those once rich were seen begging their bread. "Some fled out of the land," doubtless to Scotland, where their descendants would do battle against Norman aggression when it afterwards crossed the border.[1]

The dweller in Fife and the Lothians would learn the new and strange shapes of Norman tyranny, from the families which had to seek a distant home when the clearings were made for the new forests, or perhaps from some poacher within the sacred precincts, who had to flee before the doom of death or mutilation. The Normans had here struck out a new path in the direction of tyrannous self-indulgence. They were mighty hunters from their king downwards, devoted to the chase with a fierce ardour which brooked no restraint, either from personal prudence or from justice and mercy between man and man. The Roman law has no traces of prerogative privileges for hunting or field-sports, nor would it be easy to find any in the known customs of ancient nations. For all that, there doubtless may have been

[1] Saxon Chronicle, 1137.

many instances in which the strong who cared to indulge in such pastimes had monopolised the enjoyment, and driven the weak out of their way.

But it was for the Normans, with their other organisations, to organise exclusive privileges of sport, so as to make them the tyranny of class over class. First came the monarch himself, who held with jealous ferocity the lion's share, desolating districts of country for his own special enjoyment. A royal forest is well described by the English lawyer Manwood as "a certain territory or circuit of woody grounds and pastures, known in its bounds, and privileged for the peaceable being and abiding of wild beasts and fowls of forest, chase, and warren, to be under the king's protection for his princely delight." The Conqueror, not finding enough of land so disposable for his princely delight, cleared "the New Forest" and other districts, by the strong hand. In the gentle but solemn words of the Saxon Chronicle, "he planted a great preserve for deer, and he laid down laws therewith, that whoever should slay hart or hind should be blinded. He forbade the harts and also the boars to be killed. As greatly did he love the tall deer as if he were their father. He also ordained concerning the hares that they should go free. His great men bewailed it, and the poor men murmured thereat; but he was so obdurate that he recked not of the hatred of them all; but they must wholly follow the king's will, if they would live or have land or property, or even his peace. Alas that any man should be so proud, so raise himself up, and account himself above all men! May the Almighty God show mercy to his soul, and grant him forgiveness of his sins!"[1]

[1] Saxon Chronicle, 1087.

The odiousness of the forest prerogatives is marked by the zealous efforts afterwards made to restrict them by the Charters of the Forest, so often passed and so often infringed, along with the Great Charter. The time had not yet come, however, when the prerogatives of the Norman monarch waxed so great as to drive the nobles to make, in some measure, common cause with the people in laying restraints on the power of the crown. The tyrannies of the sovereign were repeated by the barons, of whom he was but the chief, and the more freely and amply when the strong hand of their first leader had dropped. Hence every Norman castle was the centre of terror and tyranny, and every year was widening the difference in condition between the country which had, and the country which had not, this element of oppression.

It is a very significant fact that we have no remnant of a Norman castle in Scotland. This is rendered more distinct by our having many noble specimens of ecclesiastical buildings of the same age and style of architecture. It does not follow that there never were strongholds of that type in Scotland, but the probabilities are against there ever having been any; and there was something in the temper of the people that might have made such an innovation unsafe. The hold of the Normans on Scotland was as yet but that of visitors, and of visitors not welcome at all hands. Though very popular at court, they were denounced by the people and their old leaders. There was a frequent cry to send forth "the strangers," or "the French;" and this demand, indeed, threatened to break up the dynasty founded by Malcolm and Margaret. It was felt that the Norman power was pressing dangerously

on the frontiers. There was a great fortress at Bamborough, another at Alnwick, another at Carlisle. Over all the motley tribes by which Scotland was then peopled there seems to have passed a spirit of alarm mixed with animosity. It penetrated even to the distant regions of Moray, but it was most vigorous and combative in that border-land of Saxon and Norse race, which, close on the frontiers of Norman aggression, was yet protected from its absolute infliction by being within the boundary of Scotland.

Thus arose a power which the King of Scots could not have created, but which might be available for his objects. Stephen seems to have felt that there was danger in it, and to have thought policy a better resource against it than force. In fact, at the time of Stephen's coronation, David, at the head of an army, had marched nearly up to the gates of Durham through a people who rather welcomed him as their protector than stood against him as their enemy. Then Stephen brought a formidable force, and the two kings for some time faced each other. They came to an agreement in a curious shape, which has been explained by the supposition that, whatever he might give or take, David would not admit the title of Stephen. The English fiefs, apparently with additions to them, were conferred on Henry, the son of the King of Scots, and the question even of the family's claim to Northumberland was left open.

At length that hostility to the aggressive Normans, which had spread so far and sunk so deep, took practical shape in the memorable invasion which was stopped by the Battle of the Standard in 1138. This affair thoroughly alarmed the Norman party through-

out all England. It was not the usual plundering raid or foray, but an invasion in which, as the Saxon Chronicle says, the King of Scots "thought he would win this land." We are fortunate in having the story of this invasion told to us by one who was present and able to describe what he saw—Ailred, abbot of Rievaulx in Yorkshire. He was a wonderful Latinist for his age, and a devotee of study and the pen, insomuch that he refused a bishopric which his eminence as a scholar and author had brought in his way, preferring to follow his favourite pursuits in the retirement of his abbey.[1]

What we see is, a country with many wealthy ecclesiastical establishments and powerful baronies, into which there drifts a huge countless host of men—a few disciplined soldiers among them, but the great body a wild diversified horde, such as we may suppose to have been commanded by Attila or Genseric. There are among them not only the Scots and the wild Picts of Galloway, but it is said men from that distant Orkney over which the King of Scots had no control.[2] All this motley host assembled round him, although his position as a belligerent was, that he was fighting for the province of Northumberland, of which his son was

[1] Descriptio viri venerabilis Ethelredi, Abbatis Rievallensis, de Bello inter Regem Scotiæ et Barones Angliæ apud Standardum juxta Alvertoniam. Simeon of Durham touches on the affair; and with more minuteness of detail than Ailred, but without the same lifelike spirit, it is given by Richard of Hexham—Historia piæ memoriæ Ricardi, Prioris Hagulstadensis Ecclesiæ, de Gestii Regis Stephani, et de Bello Standardi. All the earlier authorities on this war will be found brought together in the Collection of Annals of Hexham, printed for the Surtees Society.

[2] "Rex Scottorum innumerabilem coegit exercitum—non solum eos qui ejus subjacebant imperio, sed et de insulariis et Orcadensibus non parvam multitudinem accersiens."—Ailred of Rievaulx in Twisden, D. S. i. 338.

heir by inheritance. As he marches on in the midst of them, he is rather borne along by the current, than the commander of an army. If fear and hatred of the Norman aggressors was the leading idea that united elements so discordant, there is little doubt that a zest for plunder had the more powerful influence in keeping the host together.

The churchmen chroniclers record some touches of chivalry in the Scots king. He was even persuaded by Archbishop Turston of York to stop his march until King Stephen should return from settling his troublesome affairs in Normandy. There was reason in the request, since Stephen might possibly concede the demand of the King of Scots, and he agreed to wait, but would certainly not have been long able to restrain his army. The monk of Hexham has to tell that, though his abbey stood in the very track of the wild torrent, it received an effectual warrant of safety from the leaders of the troop, insomuch that it became a place of refuge for all comers. The Picts, he says, were going to attack the place when their companions drove them back, killing two of them; and one or two of the Picts, having actually plundered an oratory near at hand which belonged to the abbey, went raging mad, and perished miserably. The respect paid to this religious house was attributed to the influence of its patron saints, chief among whom was St Andrew, the national saint of Scotland.

When Stephen came he broke into the Scots border while David's army continued pillaging in England. But Stephen had troubles in the south to which he had to turn quickly, leaving the country to defend itself as the great host advanced southward in the direction

of York. Archbishop Turston sent to all the churches and religious houses in his diocese, urging the immediate employment of every influence that religion could wield, and especially the turning to use of the relics of saints. The Norman barons gathered into a group, among whom we find William of Albemarle, Walter of Ghent, with De Moubrays, De Percies, De Coucies, Nevilles, and Ferrers. Two Norman knights, with names afterwards familiar in history, were selected to reason with King David, because they held lands of him as well as of the English king. They were Robert de Bruce and Bernard de Baliol, both men whose descendants became well known in Scotland. Their mission was ineffective, and they returned to their comrades, withdrawing allegiance from King David, and leaving their Scots estates to be forfeited, if need be. Two characteristic appeals to the King of Scots are noted by the chroniclers. Bruce, before renouncing his feudal allegiance, cried shame on him for leading that ruffianly band of mixed savages against the gentle Norman chivalry who had befriended him; it was like Chatham arraigning the Government for employing tomahawking Indians in the American war. The other appeal was by Malis of Strathearn, who was scornful about the trust laid on the mail-clad men in the Scots army: he wore none, yet would he advance further against the enemy than those who cased themselves in iron.

The soul of the Norman combination was a venerable warrior, Walter of Espec. He is described as noble by race, but nobler in his Christian virtues; prudent in council and fond of peace, but terrible in war: a man of a goodly and commanding presence, large made, with

coal-black hair, great observing eyes, and a voice like a trumpet.

At Northallerton the Normans assembled, and there they set up their renowned standard. It was a great machine, like a vessel with a tall mast. From this were hung various relics and sacred banners, and at the top of all was the pix with the consecrated host. When we read of the small band of Normans gathered round this palladium, not without anxiety about their forlorn position, yet with high hope and determined courage awaiting the tumultuous onslaught, the whole picture is as like as it can be to the scene at some distant station in India during the great Mutiny in 1858, when the little garrison of Europeans is prepared to hold out against all odds until succour comes from afar.

Abbot Ailred gives us, somewhat after the fashion of Livy and Tacitus, a speech delivered by Espec from the standard. Such pieces of rhetoric are ever to be looked on with suspicion, from which the point and eloquence of this specimen will not relieve it; but there are few instances where an exhortation is more likely to have been delivered, and to have been heard by the person that records it. Whoever composed it, its spirit is significant to a high degree. It is thoroughly and exclusively Norman, with all the Norman's high spirit and aspirations, and all his contempt of the rest of mankind. Everything is addressed to them—there is no word for the Saxon, save a few touches of contumely. It is but a small band, truly, that the orator addresses; but who make it up? Are they not the one mighty warlike race whom the Deity has invested with the prescriptive right of conquest? Small was the

band of their illustrious ancestors that wrested province after province from the mighty kingdom of France. This country, on which Julius Cæsar wasted his energies in vain, was it not taken and subjugated by them with scarce a check? Had they not been victorious in Apulia, Sicily, and Calabria? and these Scots now threatening them, had not their king, Malcolm, been attacked and subdued by the great Conqueror?[1] Then if the mail-clad Normans stand firm, these naked savages, countless though their numbers be, with no other defence than small leather shields, and no better weapons than slender lances, may rush against the iron wall in vain. Then follow the terrible consequences of defeat, worked up with a character of the enemy as monsters of lust and cruelty, and descriptions of special barbarities committed by them—descriptions minute and horrible enough, for there seems to have been no kind of atrocity of which the Norman barons and churchmen were not prepared to deem this host to be capable.

When the great host came down on the compact little Norman phalanx, we are told that the Picts of Galloway gave great trouble by demanding and obtaining the front as their place. Ailred professes to tell how the host was divided. The Cumbrians and men of Teviotdale were under Prince Henry, for whose courage and prudence he has high eulogiums. Elsewhere were the men of Lothian and the Isles, with the "Lavernani," which has been rendered Highlanders. The king, it is said, led "the Scots" proper, with some English and French, or Normans, who of course had

[1] It is on the authority of this speech that the Conqueror is supposed to have penetrated to Abernethy, on the south shore of the Firth of Tay, *usque ad Abernathi*. See above, vol. i. p. 409.

holdings in Scotland. No leader could have handled with effect an army thus composed. Indeed, it resembled in its elements those great French hosts which were beaten at Cressy and Agincourt, with this difference, that the confusion and discordance in the French army were caused by levies of serfs who had no heart in the contest, while the Scots were in the field at their own free will.

The solid body of Norman chivalry stood firm against one charge after another. Nothing is to be made of such a conflict, but that one side stood firm, and that the other, ever rushing on and driven back, fell gradually into more and more confusion. This was brought to a climax by a report that the King of Scots was killed. The attacks by degrees became more and more hopeless, and were avenged with much slaughter. At length the king drew off such forces as he could keep in order. In the confused mass scattered about, the Prince was supposed to be lost, but he afterwards joined his father.

The King of Scots acted rather as a baffled than a beaten general. He kept his unwieldy army on the English side of the border, doing an infinity of mischief, and by way of occupation set them to the siege of Werk Castle. There was then in England a papal legate, the Bishop of Ostia, who tried to make peace between the two kings, and busied himself energetically in helping to make the Scots army less terrible to the people around until an arrangement could be made. Stephen, owing to his other difficulties, had to take the position of the weaker party. At the treaty of Durham in 1139, he gave up Northumbria to Prince Henry, retaining only the fortresses of Newcastle and Durham.

King David was a pious prince, and it is said that he suffered severe tortures of conscience for the sins, and especially the profanations, of which his army of invasion had been guilty; and it is not unnatural that he should have done so. The rest of his reign was a quiet one, and gave him time for reflection. He cannot have felt quite secure in the north, since the independent rights of a Maarmor of Ross were still so much of an accredited reality that they tempted an impostor to claim the representation. He was a man named Wimund, a monk of Furness, and had ability and courage sufficient to keep up a protracted contest, which ended miserably for him. David was with his niece Matilda, during her short triumph, in 1141, and he accompanied and helped her in her flight. He afterwards conferred knighthood on her son Henry. In the year 1152, he lost his own son of the same name,—one of the many princes who, dropping away before beginning to govern, have left golden opinions behind them. The Prince had been married to an English lady of an influential house, Ada, the daughter of the Earl of Warenne and Surrey, and by her he left three sons—Malcolm, William, and David.

King David died in 1153 at Carlisle, so that he ended his days in a fortress which he had virtually taken from England.

In his long reign—it lasted for twenty-nine years—he did so much to complete that ecclesiastical revival which was begun by St Margaret and pursued by her children, that his name is often credited with the merit of the whole. Perhaps he was stirred to exertion in this direction by the mischief which he knew had been

done to religion and civilisation by the wild troop he headed in the invasion of England. On account, it must be supposed, of the many religious establishments connected with his name, he is sometimes called Saint David, but he was never canonised; and as a regular process of canonisation had been established before his day, he could not appear in the calendar like those saints of earlier times who had been voted into it by acclamation.

The names of the religious foundations put into shape and adjusted to Catholic unity during his reign, if they were not actually founded by him, make a preponderance in the roll of the ecclesiastical establishment of Scotland before the Reformation. St Margaret and her husband founded the Abbey of Dunfermline. Their son Edgar made the Priory of Coldingham, near Berwick, a house which became powerful in its numerous dependencies, and was enriched both from England and Scotland. Alexander, as we have seen, got his bishopric of St Andrews, after many difficulties, put so far into shape that there was little for his successor to do. David began the establishment of the Glasgow bishopric while he was yet Prince of Cumbria. There was a difficulty with the Archbishop of York about consecration, of the same kind as we have seen in the instance of St Andrews, and it was somewhat complicated, by the see of Glasgow, as covering the old kingdom of Strathclyde, stretching southwards far beyond its later boundary. Both for ecclesiastical and political purposes, the boundaries of England and Scotland were becoming adjusted by degrees, and it would tend to remove difficulties about the see of Glasgow that in 1133 a bishop was consecrated at Carlisle who

had spiritual rule over the portion of Strathclyde or Cumbria that was becoming English.

As the Catholic revival made progress, it became easy, when a bishop was elected, to find three others of undoubted apostolic titles, according to the Catholic system, to consecrate him without going out of Scotland, and so all disputes with the English hierarchy came to an end. The other bishopries adjusted during David's reign were Dunkeld, Moray, Aberdeen, Ross, Caithness, Brechin, Dunblane, and Galloway.* Among the religious houses for regulars, which in the same manner go back to his reign, are Holyrood in Edinburgh, Melrose, Jedburgh, Kelso, Dryburgh, Newbattle in Lothian, and Kinloss in Moray.[1]

[1] How King David's services to the Church were esteemed in later times, we have a notice in Bellenden's Chronicle, written in the early part of the sixteenth century, and several years before the Reformation:—

"Sindry prudent men na thing apprisis the gret liberalite of King David toward the kirk; for he dotat the kirk sa richely with the landis pertenand to the croun, that his successouris micht not sustene thair riall estait, efter him, sa weil as thay did afore: and for that caus, he hes bene the deith of mony nobil princis in this realm, gevand thame, sum time, occasion to bring gret housis to nocht, to conques landis to sustene the croun; sum time invading the cuntre with continewal stentis and importabil exactionis on the pepil; and sum time constranis thame, as disparit princes, to invaid Ingland with battal, takand na sollicitude quhat cum of thair life; and sum time prentand evill money, aganis the common weil. Al thir mischevis hes followit sen syne in this realm, becaus the croun wes left indegent, throw ampliation of gret rentis to the kirk. Howbeit, King David did the samin, as he belevit, for the best; for the pepil war sa simple in thay dayis, that thay traistit fermely, na man micht have sa singulare favoure of God, as he that gaif maist riches and landis to the kirk. Thairfore, the wise prince, King James the First, quhen he com to Davidis sepulture at Dunfermeling, said, 'He was ane soir sanct for the crown:' as he wald mene, that King David left the kirk ouir riche, and the crown ouir pure."—Bellenden, lib. xii. ch. 17. Though Bellenden's Chronicle professes to be a translation of Boece's History, this passage is his own. It lays a heavy charge of unintended mischief against King David, and every other governor liberal in endowments to ecclesiastics. Impoverished by gifts to the Church, his suc-

David was succeeded by his grandson, called Malcolm IV. It is an expressive testimony to the firmness with which a hereditary throne was now established, that he was not quite twelve years old when he became king. It would be interesting to know how the boy's kingdom was governed for him, and how business was transacted in his name; but these secrets are not revealed to us. His reign lasted a little more than twelve years, from the spring of 1153 to the winter of 1165. It is not one of the reigns that leave any broad mark on history. It was disturbed by difficulties with the provinces not yet perfectly absorbed under the rule of the King of Scots; but these difficulties were far less serious than those which his warlike predecessors had to meet. The pretender to the Maarmorate of Ross married a daughter of Somerled of Argyle, and that family, mixing up the claims of the northern potentate with their own, became troublesome on the west coast. The house of Somerled, now established on the west coast, has a history of its own, which perhaps can best be told further on, when conclusive events give a good opportunity for looking back upon the vicissitudes of the Danish and Norse principalities setting themselves down here and there on the margins of the territorities ruled by the King of Scots. Henry II., the son of the Empress Maud, was now King of

cessors oppressed and pillaged the nobles, who in return took vengeance on them; oppressive taxes were levied; unnecessary and calamitous wars were made in England; the coinage was debased. Such were the consequences of alienating the royal domains to the Church. Doubtless these calamities did happen, but if the poverty of the crown were the cause of them, that poverty would probably have been none the less had King David's endowments not been made. The feudal monarchs did not keep the rents or produce of estates long in their own hands: by something like a natural law of adjustment, these went elsewhere.

England. He was Malcolm's cousin-german, but he was not a man who, on the ground of such a connection, would be inclined to give up anything he could hold. Northumberland, and Cumbria south of the Solway, now leaned towards the crown of England rather than that of Scotland; and at a meeting of the cousins at Chester in 1157 it was agreed that Malcolm should give up any claim to those possessions.[1] He was at the same time solemnly reinvested in the honour and earldom of Huntingdon—a possession of a very different kind, which a politic English king, observing the tendency of the feudal system, would like to see in the hands of a king of Scotland. When it is added, that young Malcolm was personally attached to his great cousin, and followed him in his Continental wars, all is said that seems to give a special character to his reign. He got much praise from the

[1] Much perplexity has been caused by the chroniclers mentioning "Lothian" as among the English possessions for which the King of Scotland did homage, and which Malcolm agreed to give up (see Hailes's Annals, i. 121, and Remarks on the History of Scotland). If King Malcolm gave up Lothian, history is silent as to how he got it back again, and ruled it insomuch that, some eighty years afterwards, we shall find it as counted within the ancient marches of Scotland. The old name of Leeds, Loyées, and in Latin, Loidis, is apt to be confounded with the old name of Lothian. We have seen already how Malcolm Canmore was spoken of as having gone out of Scotland and tarried in Lothian, and that this has been corrected into Leeds. Had the King of Scots an estate there?

After discussing the formal title of the King of England, Madox tells us that "the kingdom of Scotland was also called *Terra Regis Scotiæ*. The Sheriff of Yorkshire returned to the Barons of the Exchequer that William de Sumerville, one of the king's debtors, resided at Loeneis, within the land or dominion of the King of Scotland. Willelmus de Sumervil debet xx marcas argenti. Sed manet in terra Regis Scotiæ in Loeneis." —Hist. of the Exchequer, i. 3. If this imports, as Gilbert Stewart (Observations, 192) thinks it does, that the King of Scotland held the domain of Leeds in Yorkshire, it will account for a great deal of the confusion about homage for and yielding up of Lothian.

ecclesiastical annalists for his devotion and spiritual-mindedness, and left behind him a reputation for asceticism which Lord Hailes rudely dispersed by the discovery of an awkward genealogical fact.

On his death in 1165, Malcolm was succeeded by his younger brother William, who is known by the special title of William the Lion. How he came so to be called it were rash to pronounce. The chronicles written in the days when heraldry flourished, said it was because he was the first king to blazon the achievement of Scotland—on a shield *or*, a lion rampant *gules*, armed, and langued *azure*, within a double tressure, flowered and counter-flowered.[1] Early in his reign

[1] George Chalmers (Caledonia, i. 761) says—"William the Lion is said to be the first Scottish king who assumed the lion rampant for the national badge. Fable carries back the origin of this armorial bearing to a grant of Charlemagne. History acknowledges her ignorance of this far-fetched derivation by her silence. Archæology at length comes forward in support of her two sisters, genealogy and history: William, she insists, was the son of Earl Henry, who was the son of Maud, who was the daughter of Waltheof, the Earl of Huntingdon and Northumberland. Now Waltheof had a lion rampant for his arms, which was also the arms of Northumberland and of Huntingdon. Earl Henry equally carried the same arms, as the representative of Waltheof in both those earldoms. William enjoyed his father's rights. How much he risked and lost in prosecuting his claims on Northumberland we have already seen. From the foregoing intimations we may infer that it was by those descents the lion came into the armorial bearings of the Scottish kings, and that the lion rampant was the badge of Northumberland and of Huntingdon before the king of beasts was adopted into the escutcheon of North Britain."

But heraldry as a science has made progress since this was said, however much it may have been neglected as an art; in other words, the principles which gave it vitality in its active days have been examined as interesting historical phenomena, even while the practice of heraldry has got into neglect or anarchy. It is likely enough, then, that the accomplished gentleman who has had of late years the chief responsibility in the official direction of the adaptation of the science in Scotland, might find these elaborate suggestions of Chalmers to be sad trifling. In fact, it may be questioned whether the gift by Charlemagne is not in a certain

he followed his cousin Henry in his foreign wars, and in doing so he was naturally enough suspected of helping himself, by the influence of personal favour and friendship, to some of those miscellaneous territorial acquisitions, which it had become now an inveterate practice for the kings of the Scots to aim at, either by force or policy. Henry seems to have taken no hints, but to have resolved to keep what was now pretty completely absorbed into the dominions of the King of England. William afterwards, when attending the court at England, demanded restitution of Northumberland. This was refused. In an unlucky moment for himself, and for others too, he followed the example of his predecessors, and invaded the disputed dominions. It was the old story of waste and cruelty, coming out in tiresome uniformity of detail, until it becomes enlivened by an incident as unexpected as it was momentous.

The Yorkshire barons assembled in a small body against the invaders, as forty years earlier they had gathered round their standard. On this occasion, though they were but four hundred, yet being all mounted men in full armour, they determined to press upon the invaders, who, shy of meeting them, kept moving about in several plundering parties, with a tendency northwards. The barons having made a night-march from Newcastle northwards, found that the morn-

sense a sounder theory than his own. Charlemagne doubtless would not have known a tressure if he had seen it, or been able to say why it should differ from a bordure; but it is likely that King William and his Northumbrian ancestry were equally ignorant. The theory of ancient heraldry, however, was, that the achievements on coats armorial, as certified by colleges of heralds, were franked as badges over all the Holy Roman Empire. Thus Charlemagne appointing the Scots blazon was nothing more absurd than the incorporations, fictioned to have been made by the early kings of England, of the cities that could not produce charters.

ing of the 13th of July dawned on them with heavy mists, which rendered their farther march dangerous, as it might lead them unexpectedly on the enemy, either in force or in possession of some stronghold. When they discussed the propriety of returning, one of their number, Bernard de Baliol, exhorted them onwards, and inspired them with his own spirit. Seeing partially through the mist the towers of Alnwick, they saw also a small party of mounted cavaliers tilting in a meadow. Of these the most conspicuous, seeing their approach, spurred his horse and dashed forward, as if to challenge a passage at arms with any comer: it seems uncertain whether he knew the body to be enemies or supposed them to be part of the Scots army. He was unhorsed and taken, and the Yorkshire barons, to their amazement, found that they were in possession of the King of Scots, seized in open war within English ground. He was taken instantly to Northampton, where Henry was, and his captors were charged with unknightly treatment of their royal prisoner, by tying his legs beneath his horse's belly.[1] The value of such an acquisition was almost incalculable. It was found to have been prophesied by Merlin, and it was made out that it occurred on that same day when Henry expiated his great crime by his penance at the tomb of Thomas a Becket. England even was not a safe enough place of custody for a prisoner so valuable, and he was re-

[1] Roger of Hoveden is the authority for this. The narrative of the affair which has met with most acceptance is in the De Vita et Gestis Regum Henrice II. et Ricardi I., attributed to Benedict, abbot of Peterborough, though now pretty clearly shown to have been written by some other person. See Duffus Hardy's Descriptive Catalogue, ii. 493. William of Newburgh, who was about forty years old when the affair occurred, gives an account of it which tallies pretty well with the others.

moved to Falaise in Normandy, while the fortunate Henry might bethink himself how to turn his good fortune to greatest account. The King of Scots was accompanied in his captivity by a body of followers so distinguished that they might be termed the flower of the Scots nobility. Some were possibly captured along with him, but others get credit from the English annals for voluntary surrender, by way of penalty for the scandal of having let their king be taken out of the midst of his army.

William had no claims on the generosity of his cousin, for not only had the captive tried to wrench away a portion of the dominions which might now be counted part of England, but he was in league with Henry's rebellious son and all his host of enemies. To all these the capture of the King of Scots was a blow; and in fact it reinstated Henry in his power, and probably saved his crown for him.

The time was passing by when captives of this sort were put to death. A commercial spirit was superseding the vengeful, and the question came to be how the most could be made in the way of ransom. The admission of a complete feudal superiority over the kingdom of Scotland was the price at which Henry resolved to rate the liberation of his captive; and the selection, as a piece of policy, was perhaps a sound one. The matter was arranged in December 1174, by what was called the Treaty of Falaise. The documents in which it was rendered bear marks of the highest skill in the science of drawing such obligations tightly and unequivocally.

The obligation taken was for absolute homage for Scotland—homage as absolute as had been given for

other estates held by the King of Scotland from the crown of England, and as absolute as the homage paid by any other vassals of England. The condition of superior and vassal was, of course, to be hereditary; and to take a practical security for its being so to the next generation, the Prince of Scotland, William's brother, joined in giving the homage, and it was paid to the Prince of England, saving the father's title. The domination was made specific as to the subjects of the two crowns. If a felon fled from England into Scotland, he was to be given up absolutely to the English authorities. If a felon fled from Scotland into England, he had the option of appealing to the English courts. It was agreed that, as a security for these terms, five Scottish strongholds were to be garrisoned by English troops at the expense of the King of Scots—these were Edinburgh, Stirling, Berwick, Jedburgh, and Roxburgh. Malcolm was to return to Scotland when these were thoroughly occupied by English troops. There were twenty of the Scots nobles held as hostages—almost all of them, by the way, with Norman names; and these could only return home by each giving up his son or next heir as a hostage.[1]

[1] See the terms of the Treaty of Falaise in the Fœdera (Record edition), i. 30. Versions of it, as preserved in religious houses, will be found in Sir Francis Palgrave's Documents and Records illustrative of the History of Scotland.

CHAPTER XIV.

Narrative to the Death of Alexander II.

INFLUENCE OF THE TREATY OF FALAISE AS A FORMAL SURRENDER OF INDEPENDENCE—FORMAL ABANDONMENT OF ITS CONDITIONS BY RICHARD OF ENGLAND—ECCLESIASTICAL DISCUSSIONS—ASSERTION OF INDEPENDENCE BY THE SCOTTISH CHURCH—POSITION RESPECTIVELY TOWARDS THE KING, THE COURT OF ROME, AND THE CHURCH OF ENGLAND — DEDICATION OF ARBROATH ABBEY TO THOMAS A BECKET—DEATH OF MALCOLM—SUCCESSION OF ALEXANDER II.—CLAIMS ON THE NORTHERN COUNTIES OF ENGLAND — TREATY OF NEWCASTLE — ABSOLUTE ESTATES GIVEN TO BUY OFF THESE CLAIMS — GENERAL DIVISION BETWEEN ENGLAND AND SCOTLAND COMPLETED — ATTEMPT TO ADJUST THE EXACT MARCHES — CONTESTS IN THE OUTLYING DISTRICTS — TRAGEDY OF THE BISHOP OF CAITHNESS — QUESTIONS OF THE SUCCESSION — VESTIGES OF AN ARRANGEMENT WITH THE BRUCE FAMILY — POSITION OF THIS AND OTHER NORMAN HOUSES—DIFFERENCE OF THEIR INFLUENCE ON LOWLANDERS AND HIGHLANDERS — THE BYSSET TRAGEDY ARISING OUT OF THIS — ITS POLITICAL CONSEQUENCES — DEATH OF ALEXANDER II.

THE much-desired infeudation of Scotland was now complete, at least on parchment. In the great homage dispute, on one side of it at least, a perverse pedantry has depended on ceremonies and writs instead of broad historical facts; as if all that a high-spirited people could gain by ages of endurance and contest might be lost by a slip of parchment. But it is odd that these

pedantic reasoners should have overlooked how strongly this transaction bears against them. If the Scottish people really were under feudal subjection to the Norman kings of England, what need to create that condition by a hard bargain with a prisoner? Or, supposing that the condition had really been established, and the King of Scots was a rebel, then the phraseology of the documents would have undoubtedly shown as much, and would have renewed or confirmed the past. What the conditions of the Treaty of Falaise do, however, is to create the new condition of vassal and superior from their date. They explain the opportunity, and certify the use it is put to.

We may depend upon it, however, that the English king and his advisers would by no means have been content to rest on pedantries. They would know that what had been lost by one opportunity might be gained by another, and care would have been taken by degrees that Scotland should have had no opportunity of regaining what she had lost. In feudal history such documents merely make the way to possession. Some feudal observance has been neglected, something has been done on which a quarrel may be picked; and the overlord at last reigns in the vassal's kingdom. Henry could not, perhaps, hope in his lifetime to complete what he had begun; but when Scotland was a quiet province of Britain, ruled by his successors, the merits of his dexterous policy would be remembered.

But this consummation was not to be. In the year 1189 Richard the Lion-hearted became King of England; and one of his first steps was to restore the position of the Scottish kingdom by absolutely with-

drawing what he described as the conditions which his father had extorted from William by new deeds, and in consequence of his captivity.[1]

Richard took an obligation for ten thousand marks as the price of his discharge. But in whatever way we look on the affair, it savours of his romantic spirit, since the money would only go to help him in his crusading expedition to Palestine.

The transaction by which the people of Scotland were brought formally under the same Norman yoke as their English neighbours included their Church, but there was a difference in the formalities of the two transfers. The feudal subjugation was made as distinct and complete as words could make it. For the Church of Scotland, it was to be so far subordinate to the Church of England as it had been during the reigns of King Henry's predecessors. Reading the sentence in which the ecclesiastical conditions are regulated along with the carefully-studied clauses for clenching the feudal supremacy, one cannot help suspecting that the draftsmen of the documents, whoever they were, cared less for the ecclesiastical than the feudal part of the transaction. This impression is not lessened by our finding that there were present and assenting some dignified officers of the Scottish Church — the Bishops of St Andrews and Dunkeld, the

[1] "Quietavimus ei omnes pactiones quas bonus pater noster Henricus Rex Angliæ, per novas chartas et per captionem suam extorsit." See the Discharge at length in the Fœdera (Record edition), i. 50, with the title "Littera Regis Angliæ de Redditione Castrorum, &c.; et de restitutione omnium libertatum quas habuerunt Reges Scotice ante captionem Regis Willelmi." It was set forth in the celebrated pleading before King Edward, concerning the succession, that this restoration by King Richard was illegal; he could not dismember the empire of which he was sovereign.—Palgrave's Illustrations, 22.

Abbot of Dunfermline, and the Prior of Coldingham.[1] Probably just after the great a-Becket affair King Henry was not very anxious to aggrandise the power of the English Church; and though there were English ecclesiastics who acted as witnesses, they were not, like those of Scotland, made parties.

A papal legate, Cardinal Petroleonis, held an ecclesiastical conference or council at Northampton in presence of King Henry. In deference to so august a person, the King of Scots was present, with the Bishop of St Andrews and five other bishops. They were formally required to conform to the treaty, and acknowledge themselves subordinate to the English Church. They denied on the spot that there was any such supremacy over them. The Archbishop of York specially asserted the old claim over Glasgow and Galloway, and appealed to documents in support of it; but Jocelyn, Bishop of Glasgow, maintained that he was under the direct authority of the Bishop of Rome, and no other prelate could step between them. While the Scottish bishops chose so to assert themselves, the English had no help for it, since they had lost their former opportunity. King Alexander and his bishops had been suppliants to them for the spiritual rite of consecration, having unpleasant doubts whether those who might be called bishops among the Scots Culdees really were commissioned to impart this sacred constitution. But now the country had a body of thoroughly attested bishops, who had every element of Catholic legitimacy, and who could laugh at the claims of their English brethren to reign over them. It happened, too, that the English policy of dividing authority in

[1] Fœdera (Record edition), i. 30.

the Church by a double primacy was favourable to the Scots Church. Canterbury and York quarrelled for authority over it. The old tradition that Canterbury was supreme in Britain, as the holder of the powers granted to St Augustine, was revived. It was not in this instance asserted as an authority over York, yet it touched that primacy on a tender point. There was more at issue than the mere local adjustment by which the one might be supreme in the north and the other in the south. It was from York that the Scottish Church had got its spiritual title, and to York, then, its allegiance as a group of suffragan dioceses was due.

The Scots bishops, on their return, sent agents to Rome. There they managed their business so well that they returned with a bull from Pope Alexander III., which was a thorough triumph to the Scots clergy. In high terms it rebuked the King of England for meddling in matters spiritual by demanding concessions from the Church of Scotland, and forbade York to demand supremacy, or the Scots Church to concede obedience, until the questions at issue were decided at Rome.[1]

A cardinal, Vivian Tomasi, was appointed legate from Rome to take cognisance of the question. He had other business in hand, for he went to England, Ireland, and the Isle of Man, where he asserted the influence of the Church in a special shape by compelling the king of that island to go through the ceremony of marriage with the mother of his celebrated son, Olave the Black. It is said that, as he passed through England, King Henry refused him a passage northward

[1] Registrum Episcopatus Glasg., i. 35; Statuta Eccles. Scot., Pref., xxxvi.

until he made oath to do nothing in prejudice of the English claims. He transacted business with a council in Scotland, but nothing of a substantial kind appears to have come of their deliberations.[1]

But there was a more severe contest at hand between the King and the Church, which threatened to throw Scotland into such a sea of troubles as had just been vexing England. There was a certain Joannes Scotus, Archdeacon of St Andrews, the nephew of the Bishop of Aberdeen, and otherwise influential in the Church. On the occurrence of a vacancy in 1178 he was elected Bishop of St Andrews by the chapter. The king having destined this benefice for Hugo, his chaplain, put him in possession of the temporalities, and managed to get him consecrated. Joannes appealed to the Pope, who put the matter into the hands of the legate Allexius. The legate decided in favour of Joannes, and consecrated him as bishop. A battle now began between the temporal and the spiritual arm. The king banished Joannes, and, as it would appear, some of his supporters, out of Scotland, and the legate professed to lay the diocese of St Andrews under interdict. The affair is spoken of so lightly even by ecclesiastical writers that it cannot have been considered that the legate could effectually carry out that awful sentence. The Papal Court was again called on to

[1] "Nothing more is known of the council than that it renewed many ancient canons and enacted new ones. Some of them appeared to have curtailed the immunities and impaired the revenues of the Cistercians. The monks of Rievaulx, the mother of all the Scottish abbeys of the order, sent a letter to the bishops of Scotland adjuring them to repudiate the statutes which their legate Vivian had made against the brethren of Citeaux, and the dull dry page of the Cistercian Chronicle of Melrose sparkles into invective against his rapacity and violence."—Statuta Eccles. Scot., Pref., xxxvii.

interpose, and the device was adopted of giving power to those who were asserting a spiritual authority over the Scots Church. The Archbishop of York and the Bishop of Durham were invested with legatine powers, enabling them to excommunicate and interdict any persons, lay or ecclesiastic, from the king and the bishops downwards. They set to work with threats, and when any one obeyed these he was punished by the civil power. The quarrel was brought to a sudden stop by a change at Rome. Pope Alexander died, and was succeeded by Lucius III., who disliked quarrels with the temporal powers. There was an immediate adjustment, by which Hugo got St Andrews, and his competitor was made Bishop of Dunkeld.

It will be easily understood that King William the Lion was no favourite with the ecclesiastical annalists who had to record such transactions. The illustrious Welshman Dubarri, better known as Giraldus Cambrensis, goes out of his way to characterise him as a tyrant to the Church, and in fact an imitator of the egregious abuses of the Norman tyranny in England. Yet King William did an act that should have endeared his memory to the ecclesiastical mind, and especially to that portion of it which was then struggling for Catholic supremacy over temporal powers. He founded the great Abbey of Arbroath, endowing it with estates and church patronages stretching over distant districts of the country. The broken remains of the great church of the abbey still testify to its magnificence. But more remarkable even than the splendour of the endowment was the method of its dedication. Usually the memory of saints has been mellowed by antiquity before they have become the object of

such dedications, but King William devoted his great gift to the memory of Thomas a Becket, whose blood had been freshly shed. He was killed in 1170, his canonisation was registered three years afterwards, and the Abbey of Arbroath was founded in 1178. One cannot but believe that this peculiar act was done under the influence of some especial policy, though what it exactly was is not clear. The simplest view was to hold that the king desired to obtain a share in the blessings scattered about by so eminent a martyrdom; and an explanation equally simple, but of another kind, was, that in their early days he and Becket were friends and companions at the court of King Henry.[1]

The reign of William the Lion lasted down to the year 1214. In its latter years it was again animated by prospects of mastering the Northumbrian and Anglo-Cumbrian provinces, when King John of England was getting into his troubles. William was able to defeat a design formed by the English king to build a frontier fortress on the English side of the Tweed, and both kings had for some time armies menacing each other on the border, but not coming to blows.

His son, Alexander II., who succeeded him, a youth in his seventeenth year, inherited this border contest and its hopes. There was an understanding between the young King of Scots and the league of English barons, the end of which was of course to be the annexation of the northern provinces to Scotland; indeed, they professed to put King Alexander in possession of them. To maintain the acquisition a Scots army infested the

[1] "Ob familiarem amorem inter ipsum et Sanctum Thomam, dum adhuc in curia Regis Henrici esset, contractum."—Chronicon de Lanercost, p. 11.

district, and King John sent a retaliative force, which penetrated into East Lothian. Again there is, during the years 1216 and 1217, the old work of cruelty and devastation on both sides, with nothing to vary it, until at last the fate of the French invasion put an end to the hopes of acquiring the border provinces for Scotland. So lately as the year 1237 the claims on the Northumbrian districts were discussed between the crowns in a friendly and diplomatic form. The old demand was made by King Alexander, and Henry III. met it by a proposal to give the King of Scots certain manors in Cumberland and Northumberland, not in sovereignty, but in feudal property. The offer was accepted as on the whole advantageous to the Scots king, and a relief to the people from hopeless attempts at conquest in a country now strongly united with the central government of England. Any reasonable adjustment putting an end to claims on the northern counties was scarcely less a blessing on the English side. The repeated invasions by the Scots shook the country to its heart. It has to be noticed that we have only the English side of the question in all matters of dispute between the two nations, since all the annalists of the period were Englishmen. They have to tell of the King of Scots coming to do homage to the King of England, as holding estates of him in feudal vassalage; but the tone of their narratives is as if they spoke of a formidable neighbour coming to demand tribute. It is somewhat as the historians of the later Empire spoke of the Franks, and as the French chroniclers spoke of the Norsemen. They are rude barbarians, coming in all reverence to the court of the civilised sovereign, yet they are objects of un-

easiness and alarm. For the estates and honours given to bribe them they do humble homage, yet their rapacity is not appeased—they are not content with the bribe—and again, in an aggressive humour, are crossing the border and threatening their benefactor. The whole story has a significant resemblance to the attempts of the King of France to buy off and soothe the Norsemen, whose chief professed all due homage in proper form, yet, according to a common legend, took a sly opportunity, in his awkwardness in court fashions, to trip up the paramount monarch in the course of the ceremony.

Apart from the question of bringing up the claims on the northern counties, handing over the estates on the border to the King of Scots kept alive the policy of the English court to have him coming there to do homage for something or other. This was perhaps the more desirable that the honour of Huntingdon had now gone to a collateral—the descendants of Prince David, William the Lion's brother. The precision of old Anglo-Norman records enables us to know the exact nature of the new holdings without letting us see the reasons why some are so different from others. The King of Scots' estates in Cumberland—such as Penrith, Scotby, Sowerby, and others—were held as mere estates in homage, with the proper fealty which the enjoyer of the reality of property had to give for it to the sovereign. This acknowledgment had nominally to be made every year, and the shape in which the King of Scots had to make it was by delivering a falcon at Carlisle Castle. Tyndale and other lands in Northumberland were held by simple homage, not in property, but in regality or sovereignty, subordinate to the sovereignty of England; and here the King of Scots did

not merely draw rents and profits as a landlord, but administered justice through his Justiciar.[1] These English estates of the Scottish crown are referred to in subsequent documents as "Tynedale and Penrith."

From this period the efforts to extend the Scottish frontier cease, and the people of the northern counties of England got quiet for a time, and until they found themselves as part of England invading the inhabitants of the country whence they were so often invaded. The boundary of the two kingdoms had now an opportunity of becoming distinctly and permanently recognised. A few years earlier, in the year 1222, we have a memorandum of the proceedings of a joint commission to measure off the exact line of the marches of the two countries. There were certain knights of Northumberland on the English side; on the Scots the Justiciary of the Lothian, with the Earl of Dunbar and other knights. The report of the affair to Henry III. by his chief commissioner preserves the etiquette of equality between the contracting parties. He tells the King of England how they met and exchanged courtesies, and then tried if they could agree in tracing the boundary-line between his kingdom of England and the kingdom of Scotland. It seems to have been a partial attempt only, to begin at Carham, which is now in England, and end at Howdean near Jedburgh. Six commissioners were chosen on either side. As the six from Scotland would not concur with the view taken by those of England, the joint commission was recast, but again set to work without success. They began at Reddenburn in the parish of Sprouston, a feeder of the Tweed; but when

[1] Palgrave, Documents illustrating the History of Scotland, p. 3-6; Introd., vi. vii.

the English proposed to trace by Hoperiglaw and Whitelaw, the Scots would not follow them; and the attempt was abandoned, the English commissioners entering a protest that their line was correct—and it certainly, in touching Whitelaw, agreed with the line of the border as now laid down in the Ordnance Survey. Whether there was any further attempt at an exact tracing of the border line may be doubtful, since in later negotiations we find allowance made for a tract called the debatable land. But the record affords evidence that the division between the two countries, as it afterwards remained, had even at that time settled down by usage, since the line which the commissioners are to find is that of the ancient marches.[1]

The virtual adjustment of the boundaries of the two kingdoms, bought as it was by England with a price, gave peace for a time on the border, but the reign of the young prince was amply troubled elsewhere. He inherited from his father difficulties in many shapes as to the outlying provinces, as they might be termed—those to which the King of Scots professed a title which he could rarely make effective. He had not much authority north of the Tay, and the regions beyond the Moray Firth were still in the hands of a representative of the old Maarmors sufficiently strong to make war on the King of Scots. In the West Highlands—the old patrimony of the race of Fergus—there was a ruler whose title came from the conquests of the Norsemen; and the family which predominated in Galloway asserted a sovereign position

[1] "Qui rectam perambulationem facerent inter regnum vestrum Angliæ et regnum Scotiæ;" and again, "quod rectas et antiquas marchias et divisas inter regna prædicta recognoscerent."—Royal and other Historical Letters illustrative of the Reign of Henry III., Rolls edition, i. 187.

by overtures for alliance with the King of England. This family had murderous internal disputes; and when these ended in the supremacy of one branch, its interest in the support of the King of Scots was furthered by its head, Allan of Galloway, becoming Lord High Constable, as the office came to be called, of Scotland. It happened to his posterity to have a closer connection with the destinies of Scotland, from his daughter marrying the head of the house of Baliol.

Of the untamed condition of the northern district there had been a recent example in the fate of a poor bishop, who was daring enough to attempt to become a spiritual shepherd in distant Caithness. Harold, earl or king of Orkney, had been driven from a settlement in Caithness, which he determined to retake if he could. He arrived with ships and men, and found the new bishop there installed. The bishopric was created by one of the sons of St Margaret, and was therefore an assumption of authority over the northern district by the King of Scots. Whether on this account, or because the bishop attempted to levy "Peter's pence," the earl was savagely enraged; and finding the bishop coming forth from his palace of Scrabister, seized him, and horribly mutilated him. It is significant that this narrative comes from the Scandinavian side, and would have continued to be doubted, as it had been, were it not confirmed by Pope Innocent III., better informed than the King of Scots about an event in which the Church in Caithness was concerned. He had been told of it, indeed, by the Bishop of Orkney, who would feel an interest more acute than satisfactory in such an affair; and Innocent, writing back in the year 1202, acknowledges the substance of the

news :—"We have learnt by your letters that Lombard, a layman, the bearer of these presents, accompanied his earl on an expedition into Caithness; that there the earl's army stormed a castle, killed almost all who were in it, and took prisoner the Bishop of Caithness; and this Lombard, as he says, was compelled by some of the earl's soldiery to cut out the bishop's tongue." The Church, having been so successful with the great King Henry of England, was not likely to spare this petty ruler, and precise articles of penance were laid down for him. For fifteen days he was to walk about conspicuously in his own territories with bare feet, and only clothing enough for decorum, his tongue being tied so as to hang forth from his mouth, while he suffered the active discipline of the rod. He was then within a month to set forth to Jerusalem, and there serve the Cross for three years. When all this, with some minor penalties, was accomplished, he might be received within the bosom of the Church.[1] The Orkney earl, however, was not so easily accessible as the King of England. We know only that the penance was evaded. The affair tended to the consolidation of the dominions of the King of Scots, for it induced William the Lion to march northwards and strike one more of the many blows which at last broke the power of the rulers beyond the Moray Firth.

It must have been some time before the year 1240 that an event of national moment occurred, rendered mysterious by the way in which it came to the knowledge of later times, since it is mentioned in none of

[1] Orkneyinga Saga, p. 415; Epist. Innocent III.; and other authorities cited in "Two Ancient Records of the Bishopric of Caithness."—Bannatyne Club, 1848.

the usual chronicles, and is only known because, some fifty years afterwards, the person chiefly concerned founded on it for the purpose of accomplishing an object. It was brought up in the discussions about the succession to the crown in 1291 by Robert Bruce, Lord of Annandale. He asserted that Alexander II., despairing of issue, had brought the succession to the crown under the consideration of the prelates, nobles, and good men of the country—of a parliament, such as there then was—and that the result was an arrangement that, if he died childless, Robert Bruce was to succeed him as king, being the nearest male relation.[1]

The arrangement was not an unlikely one. Bruce was a son of Alexander's cousin-german, the daughter of David, Earl of Huntingdon. He was then the only male descendant of any daughter of Earl David, though others came afterwards and competed for the succession, as we shall see.

The family of Bruce was one of the most powerful in the north of England. It is one of the many Nor-

[1] Bruce asserted that there were those alive who could testify to the fact; and although there were many exaggerations and falsehoods in the pleadings of the competitors for the crown in 1291, it is difficult absolutely to disbelieve such an assertion. There is no statement of its having been contradicted on the notarial record of the discussion, where it is distinctly minuted (see Fœdera, Record edition, i. 777). It is referred to in the fragments, discovered from time to time, of the pleadings and documents connected with the great competition; but in these, too, there is no trace of a contradiction. The occasion of the affair was, it seems, Alexander's departure to a war in the Isles. In the year 1249 he set off on such an expedition, and died on the way. This cannot, however, have been the war referred to by Bruce, for his statement is, that Alexander was in depair of having an heir of his body—*desperans de hærede de corpore suo*—but when he went on this expedition he left his son behind him. This son was born in 1241, by his father's second marriage in 1239.—See Sir Francis Palgrave's Documents and Records illustrating the History of Scotland.

man houses illustrious since the Conquest, but not very easily to be traced farther back, though in this instance the efforts to stretch the pedigree have been very vigorous.[1]

The house of Bruce was a fine type of those Norman races in whose hands were the destinies of so many European communities. Why they should have been so, loved and courted, is one of the mysteries in the history of social influences. What they were at the court of Edward the Confessor, they became in the courts of the Scottish kings from David downwards.[2]

In looking to the success of the Normans, both social and political, as a historical problem, it has to be noted that we have no social phenomena in later times with which this one could be measured and compared. Coming from the rude north into the centre of Latin civilisation, they at once took up all the civilisation that was around them, and then carried it into higher

[1] Attempts have been made to bring the cradle of their race home to Scotland, in a certain Brusi, a son of the Earl of Orkney by a daughter of an early Malcolm of Scotland, whose descendant went with Rollo to France, and built the Castle of Brix. Few of the Norman houses are so well worth tracing backwards, were there any chance of success in the pursuit.

[2] Sir Thomas Gray, in his Chronicle, written early in the fourteenth century, tells how William the Lion brought with him, when returning to Scotland from his captivity, younger sons of the families to whom he was indebted for courtesies, and how he endowed them with lands. We cannot take the passage as precise statistics. We may get more from it by counting it as the shape into which the chronicler put the traditions of the migration of the great Norman houses to Scotland. In this view the list of names is instructive:—"Il enprist od ly en Escoce plusours dez fitz pusnes dez seygnours Dengleterre qi ly estoient beinuoillauntz, et lour dona lez terres des autres qy ly estoient rebelis. Si estoint ceaux dez Baillolfs, de Bruys, de Soulis, et de Moubray, et les Saynclers; lez Hayes, les Giffardis, les Ramesays, et Laundels; les Biseys, les Berkleys, les Walenges, lez Boysis, lez Mountgomeris, lez Vaus, lez Colvyles, lez Frysers, lez Grames, lez Gourlays, et plusours autres."—Scalacronica, 41.

stages of development. We have no parallel to this in later times. Civilised communities have not found barbarians improving on them. If we were to see exemplified the phenomenon of the rude sea-rovers transformed, after a couple of generations, into the courtly Normans, we must suppose some of the barbarous races we have come in contact with in America, Africa, or Australasia, becoming more civilised than ourselves. There was in the case of the Normans a preceding cause, however, apparently necessary to such a phenomenon, but happily wanting in later times. The barbarians were the invaders, not the invaded; they were from the beginning more powerful physically than the civilised people whom afterwards they were to excel even in civilisation.

Though neither was a sudden affair like the conquest of England,—their migration to France, and their migration to Scotland, were things as different from each other as the rough sea-rover and the courtly knight endowed with all the attributes of chivalry. One would think that, looking to their history, they might have been deemed dangerous guests. Yet the formidable qualities that made them so, might be in some measure the reason why they were courted. Perhaps there was a feeling that protection was to be found at the hands of that mighty race who were subduing all others unto themselves—such a feeling as induces Oriental governments to attract European adventurers to their courts. Supreme in England, and everywhere stretching the boundaries of their power, it may have seemed a wise precaution against the aggrandising efforts of such potent neighbours to give them a stake in the nationality of Scotland. Supposing this to have been the policy

which filled Scotland with Norman adventurers, and gave them estates, titles, and offices, it might seem to have been a sad failure at the time when the most eminent of these Normans were competing with each other to sell the independence of the country as the price of wearing its degraded crown. Yet in the end it was the descendant of the earliest and most highly favoured of these adventurers that wrested Scotland from the Plantagenet kings, and established in the country a permanent national government.

The Normans were by no means popular throughout the country. We have seen that on the death of Malcolm III., their first patron, a change of dynasty was almost effected upon the policy of driving them out. In some places they were long unwelcome. An English chronicler, generally well informed, tells how the wild men of Galloway, whom we have seen so eager to be let loose on the Normans at the Battle of the Standard, when they returned home from that affair, put to death all the French and English strangers they could lay hands on. They took the opportunity of the king's captivity to rid themselves at the same time of the representatives of royalty; but as to these they were content to drive them out of their country.[1] It tends to confirm this story, that the Norman adventurers were shy of Galloway as a suitable place of settlement, and the absence of names belonging to their race among the early landholders there, has been noticed as conspicuous.[2]

[1] "Statim expulerunt a Galueia omnes Ballivos et custodes quos Rex Scotiæ eis imposuerat, et omnes Anglicos et Francigenas quos apprehendere poterant interfecerunt."—Benned. Ab.

[2] Innes's Sketches, p. 96.

Among the Irish Celts of the western and central Highlands, on the other hand, this policy of planting Norman settlers appears to have been very effective. It is the specialty of these races that they must have leaders—they cling to the institution by a law of their nature; and if the desired dictator and guide do not come in one shape, they will take him in another. This was a disposition exactly adapted to the Norman feeling of superiority and command. Accordingly, we find that, when these adventurers got themselves established, they rallied round them devoted clans of followers, who looked up to them as their natural leaders and commanders. An incident occurred in the year 1242 which showed the tendency of such connections, and had an important influence on subsequent events. The house of Bysset had great possessions in the Highland country around Loch Ness. In the year 1242 there was a tournament near Haddington, where some of the family of Bysset, with their followers, were present. It so happened that one of them was unhorsed by the young Lord of Athole. Speedily afterwards Athole was slain, and the house in Haddington where he abode was burned: it was probably built of wood, according to the practice of the period. The Byssets could not clear themselves from this unchivalrous deed. It was, indeed, clearly the doing of their followers; and Highland history shows us that, in times far later, it was impossible to restrain the vengeance of such followers when insult or injury was done to their leaders. Of any such law of chivalry as that which contemplated conflict without deadly malice, and permitted a victor to live if he could be slain, they could have no conception. A strong feeling set against the Byssets. Their

estates had to be forfeited, and the head of the house escaped alive with great difficulty. The family afterwards pushed their fortunes with the other Norman houses in Ireland, and their Highland estates went to the Frizelles or Frasers, who founded an influence which became troublesome to the government five hundred years afterwards.

In the mean time the head of the Byssets found refuge at the court of King Henry III. Here, as the chroniclers tell us, he maintained that he had a right to appeal against the forfeiture to the English king as lord paramount of Scotland. In all such questions, great or small, it is well known that the raising of a practical point has an immense influence in bringing wide questions of principle to a bearing. This eminent leader, pleading his practical grievances of condemnation by a sort of ostracism and the forfeiture of his estates, was supposed to have gone far in impressing on the English court the policy of practically asserting the superiority over Scotland. Something was said at the same time about the Scots king encouraging English traitors and enemies of the English king. It is difficult altogether to find sufficient immediate cause for what occurred in 1244, just two years after the affair of the Byssets. A great English force then marched to the border and menaced Scotland, while a Scots army was mustered for the defence of the country. It amounted, if we may believe the chroniclers, to above a hundred thousand men, and passed over the border into English ground.

This hostile array on both sides is all the more unwelcome a difficulty, that we are told by the chroniclers how, two years earlier, when King Henry was

called abroad, he left his close friend, the King of the Scots, in charge of the border districts,—those very territories which the kings of the Scots had been for centuries striving to bring under their own dominion. It has been supposed that there was some foreign element of anxiety or umbrage to the English king arising out of Alexander's second marriage, when he took to wife Mary de Coucy, a lady who figures more in her son's reign than her husband's. But the alliance itself could not have been the direct cause of offence, for it was now five years old, dating in 1239.

Whatever may have been the cause of the demonstration, it was insufficient to incite to blows. If the Scots king was at the head of so large and well found a force as the chroniclers speak of, there was on the other side an element new to an English army, and not, perhaps, one productive of much confidence on the eve of a battle. To put to use the new acquisitions of the English kings, bands of the Irish were brought over under their native chiefs or kings, and we find King Henry with all solemnity recording his thanks to some twenty of these, with as near an approach to their proper designations as the Norman scribe could accomplish.[1]

Thus there was no fighting, and the sovereigns came to terms in "the Treaty of Newcastle." In its adjustment, no reference seems to have been made to homage on the part of the King of England, or to possessions south of the border on the part of the King of Scotland; but each engaged not to abet the enemies of the other, and not to make war on the territories of the other without just provocation. From the tone of the chronicles

[1] Fœdera.

it might be inferred that King Henry found his army averse to a contest; that the spirit of the Englishman prevailed over that of the Norman aggressor; that there was a friendly feeling towards the Scots; and, in short, that the army could not see a legitimate ground of quarrel. Another consideration which may have rendered restraining councils the less unwelcome to the Norman mind is suggested by subsequent events. If conquest was the object, Wales afforded a more likely field for the employment of Henry's army; and at all events, a cruel war there immediately followed the demonstration on the Scottish border.

Alexander II. died in the year 1249, in the small barren island of Kerrera, which fronts the Bay of Oban. He was there on an expedition to assert his feudal supremacy over the ruler of Argyle and the Isles—a potentate whose position will be viewed further on in a summary of the history of the islands and outlying districts which held out against the aggrandising efforts of the King of Scots.

CHAPTER XV.

Narrative down to the Death of the Maid of Norway.

ALEXANDER III. — HIS BOYHOOD — INFLUENCE OF HIS MOTHER, MARY DE COUCY—HIS INAUGURATION AS MONARCH, AND THE PECULIAR CEREMONIES OF THE OCCASION—GREAT QUESTION OF THE ANOINTING OF THE SCOTTISH KINGS—ITS CONNECTION WITH THE CLAIMS OF ENGLAND AND OF THE COURT OF ROME —FULFILMENT OF TREATY OF NEWCASTLE—MARRIAGE OF THE YOUNG KING WITH AN ENGLISH PRINCESS—THE QUESTION OF HOMAGE—THE RULE IN SCOTLAND DURING THE MINORITY—FACTIONS OF THE COLLATERALS LOOKING FORWARD TO THE SUCCESSION — COMYNS AND DURWARDS — INTERFERENCE BY THE ENGLISH KING—THE ISLANDS, AND THEIR CONNECTION WITH NORWAY—HACO'S INVASION—THE BATTLE OF LARGS—ITS INFLUENCE—INCREASE OF TERRITORIAL POWER—TAXATION OF THE CHURCH — BAGIMOND'S ROLL — ECCLESIASTICAL COUNCILS — AN ECCLESIASTICAL CODE—TAMPERINGS WITH THE RECORDS OF HOMAGE—HOPEFUL FUTURE OF THE COUNTRY—DISASTERS—DEATH OF THE KING'S DAUGHTER, THE QUEEN OF NORWAY—DEATH OF HIS SON—HIS OWN DEATH—DEATH OF THE HEIRESS, THE MAID OF NORWAY.

ALEXANDER II. left a son, who succeeded him with the title of Alexander III. He was not eight years old when the succession opened to him. There was no attempt to compete with his claim; and here was another instance, following that of Malcolm IV. at an interval of nearly a century, to show that there was a principle of hereditary stability in the succession to the

crown. His mother came of a remarkable stock. Alexander II.'s union with Joan of England had been unfruitful, and soon after her death in 1239 he took to wife Mary, daughter of Enguerand de Coucy. This family specially represented the spirit of chivalry. It was not very ancient, nor did it ever boast of great territories. It was the time when the Knights Templars and other orders were developing here and there into powers of a corporate character, which rivalled those of territorial monarchs. The boastful motto of the De Coucys, expressing their pride in the rank which they maintained in this order or caste, is well known.[1] This family had brilliant alliances. Enguerand had for his brother-in-law the Emperor Otho IV. And now his daughter was a queen. She was a woman with a will of her own, and helped by her activity and influence to protect her son from the dangers around him, and to shape the policy of the rule that had to be exercised in his name.

If we are to adopt what we are told by Bower, writing nearly a hundred years afterwards, we find the royal boy crowned at Scone with great pomp, the dignified clergy and great feudatories of the crown attending. Mantled, sceptred, and crowned, he was seated on the mysterious Stone of Destiny, in front of the altar, at the east end of the church of Scone. Then occurred a peculiar episode. A venerable white-bearded man of the Highland tribes, clad in a scarlet cloak, came forward, and recited in his own tongue the genealogy of the young king. When repeated in modern books, this incident looks like a dramatic decoration;

[1] "Roi ne suis, ne prince aussi;
Je suis le Sieur de Coucy."

but those acquainted with such writers as Bower will feel that he would not have recorded it without strong reasons for believing in it. It was not an incident congenial to historical ideas in his day and among his class. The Celt had then sunk far down in the scale of estimation; and to the Lowland churchman of the fifteenth century the Highland seer was as unlikely a participator in state ceremonials as the Indian medicine-man might be to the New-Englander of the eighteenth century. It is the oddity of the affair that seems to have struck the chronicler; and, on the whole, it is likely to be more accurate than the other specialties described by him.[1] Perhaps the secret why the chronicler is so picturesque and circumstantial about the coronation of the young king, is because it came to be connected with some curious questions about the

[1] There can be no doubt that the description (Scotichron., x. 2) applies to a Highlander. He is "*quidam Scotus venerabilis, . . . quamvis silvester et montanus honeste tamen pro modo suo indutus.*" He speaks *materna lingua*, and there is an attempt to report the commencement of his address, thus: "Benach de Re Albane Alexander Mac Alexander Mac William Mac Henri Mac David, &c., *quod ita sonat Latine, Salve* Rex Albanorum Alexander Fili Alexandri Filii Willielmi," &c. The genealogy is carried back into remote fabulous ages; and this portion of the episode is less credible than the rest, as there is reason to believe that these very ancient genealogies of the kings of Scots were the creation of the chronicler's own day. Scone is near the Highlands, and the appearance there of a mountaineer could not be very wonderful at any time, or, indeed, worth notice. In this instance, however, it forced itself on Fordun's notice by the important and unusual function performed. The story suggests the probability that the Celts still retained a stronger position in the country than the ordinary annals give them, because these were written in later times, when the Celt had become a creature to be hunted off the earth. Had we earlier authentic chronicles, we would doubtless know more of the steps by which the predominant race of the Dalriadic Scots sank into what they afterwards became. It is observable that Lord Hailes does not stoop to mention the episode of the Highland sennachie. Highlanders had not become fashionable in his age.

inauguration of a king of Scots. There stands on record a courteous letter to King Henry of England by Pope Innocent IV., professing to be an answer to Henry's earnest request that the Pope would take steps to prohibit the anointing and crowning of the young King of Scots, because he was the liege vassal of the King of England. The Pope tells him not to be surprised at the refusal of such a request, as there was no precedent for compliance with it. At the same time, the King of England might be assured that the Court of Rome would take no steps likely to interfere with the royal dignity of a sovereign.[1]

It is at first sight difficult to understand how Henry could expect his request to be of any use, for Innocent's letter is dated in 1251. The young king was crowned, according to the chronicles, on the 13th of July 1249, six days after his father's death.

But was this a coronation of the solemn kind which King Henry desired to defeat? Was King Alexander crowned and anointed with the ceremonies authorised at Rome? The anointing of kings, according to the tradition of the scriptural usage, was one of the influences made available for diplomatic purposes by the Court of Rome. Many kings were strong enough to hold their own without it, yet it gave a tone of respectability and solemnity to the rule of those who got it, and thence was much coveted. Its extension in any new direction was ever a matter of grave consideration, in which the importance of admitting a new member among the ecclesiastically sanctioned monarchs must be weighed against the displeasure and jealousy of those already included. Properly, indeed, to be anointed was the sole

[1] Fœdera (Record edition), i. 277.

privilege of the Emperor, as holding civil jurisdiction over the Christian world co-ordinate with the Pope's spiritual jurisdiction. But other monarchs came to be more powerful than the Emperor. So the kings of England and France were admitted to the privilege, along with the King of Jerusalem, whose position gave him peculiar claims. There are traces of the anointing having been twice requested for Alexander II., and twice refused; and it does not appear to have been conceded to Alexander III. That a crown came to be used when a king of Scots was inaugurated is shown by the appearance of such an article from time to time as a valuable piece of property. But it appears that a full coronation, in the ecclesiastical sense of the term, was not conceded to any king of Scotland earlier than David, son of Robert the Bruce.[1] It is certain that in the great pleadings held before King Edward I., when he asserted his claim as Lord Paramount of Scotland, it was put as a material point that the King of Scots was never anointed. Indeed, it was said that the ceremony of his installation was less solemn than that of the Prince of Wales, who was decorated with a garland, and placed on his throne by bishops.[2]

After the young king's inauguration, the next step was to give effect to a condition in the Treaty of

[1] See in the Notes on the Preface to the Statuta Ecclesiæ Scoticanæ, p. xlviii. *et seq.*, a very curious critical examination of the accounts of the inauguration of the kings of Scots, tending to the conclusion that the phraseology of the chroniclers is influenced by their sense of the imperfectness of the ceremony, as wanting the ecclesiastical element.

[2] Chronicles of St Albans, Rishanger, 339. It was argued from this that Wales was a fief of the English crown, a grade higher than Scotland in feudal dignity.

If King Henry's protest against the anointing was concocted with an intention to assert a claim as lord paramount over the minor king, it is

Newcastle, by which he was to become the husband of the English princess Margaret. King Henry took care that this should not be long delayed, and they were married at York on Christmas day in the year 1251. The Archbishop of York performed the ceremony, and had the responsibility of entertaining the illustrious guests. The King of England was there, so was Mary de Coucy, the mother of the young king, with a great foreign attendance; and few affairs in that age were surrounded with more lustre than the marriage of these two children. We have it on the authority of the English chronicler, Matthew Paris, that the young king went through the form of homage for his English estates, Penrith and Tyndale; that Henry demanded of him homage for Scotland also, and that he made answer that this affair, on which he had not consulted with his proper advisers, the notables of his realm, was too important to be discussed on a festive occasion like the present. Farther, that King Henry, unwilling to disturb the harmony of the meeting, pressed the matter no further, but kept his own counsel. This is briefly told by Matthew as if it were a small matter, and his authority for it as an actual occurrence must just go for what it is worth.[1] It may be said, however, that King Henry had far more likely

significant that he made no actual attempt to assert such a position. Nothing was more firmly fixed in feudal practice at that period than that the superior held the fief during the vassal's minority. Henry never exercised this right of a superior, and in any other shape than the letter of Innocent there is no vestige of his having professed such a right. Indeed, he took up a position quite inconsistent with the functions and position of a lord paramount. It fell to him, as we shall see, to interfere a good deal in the affairs of the country, and in doing so he styled himself "Principal Councillor to the illustrious King of Scotland."

[1] Edit. 1644 (by Wats), p. 555, Giles's translation, ii. 469.

opportunities for pushing the question of the feudal superiority, but that his whole line of ostensible conduct was that of one who sought to influence the Government of Scotland as the father-in-law of the boy-king, rather than of one desirous of accomplishing the subjection of the country.

Any attempt to go into the details of the manner in which the country was ruled during this king's minority must of necessity become confused, because it is filled with intrigues and counterplots and efforts of personal ambition, while neither can the actors nor the policy they pursued be brought out so distinctly as to enable us to take an interest in them. A boy on the throne, with no brother or other near heir, was a condition which naturally stimulated collateral relations to take up a position for prompt action should an opening occur. It happened that there was a cluster of such collateral relations, all ambitious Norman barons, with possessions both in England and Scotland. Their several genealogical positions will have to be noticed afterwards when their claims come up in a practical shape. Meanwhile the most powerful among them was a member of the great family of Comyn, who held many honours and large estates. Opposite to this influence stood that of Durward the Justiciar. He was married to an illegitimate daughter of Alexander II. He was accused of an intrigue of an extremely significant character in the possible fruit it might bear if successful: this was a negotiation with the Pope to legitimate his wife, and make her the next heir to the throne. That he tried to accomplish such a project will be seen more than once coming up in the disputes about the succession to the crown which

became so momentous to the country. Durward's party, which was favoured by England, seized the Castle of Edinburgh, and, according to their own phraseology, "liberated" their young sovereign from subjection to the Comyns. Just after this event, in the year 1255, King Henry, who had sent emissary after emissary into Scotland, thought it necessary to come himself, attended by a considerable force. He met the young king at Roxburgh, and before he turned southwards adjusted the government of Scotland to his satisfaction. The seizure of Edinburgh Castle, however, had set a precedent often followed in Scottish history—that of kidnapping a monarch and ruling in his name. The party of the Comyns was strengthened by the arrival in Scotland of the king's mother with her second husband, John de Brienne, son of "the King of Jerusalem." The party were strong enough to seize the king at Kinross, and along with him they got possession of a movable of novel introduction, but gradually becoming a symbol of important powers—the Great Seal of the kingdom. This was in 1257. Soon afterwards the Comyns lost their leader, the Earl of Monteith. Whether from this event or not, a regency was formed, which did not look so dangerous as to demand the interference of King Henry, who seems for some years to have let the country alone. In the year 1260, in critical domestic circumstances, the young monarchs visited the court of King Henry; and here, in the same year, a daughter was born to them, named Margaret, and destined to be an important personage in Scottish history.

Three years afterwards there was a memorable invasion of Scotland by the King of Norway. It was the

concluding act in the career of the Norsemen or Danes in Scotland, and affords an opportunity for resuming the history of their connection with those outlying provinces which finally became incorporated into Scotland. We have seen that Orkney and Shetland belonged to Norsemen. They were claimed as a dependency of Norway, though the Yarl, or king as he is sometimes called, who ruled over them, was sometimes strong enough to do the part of an independent monarch. In whatever position these islands may have stood towards some of the rulers of the mainland of Scotland at the time when we have found St Columba visiting the Pictish king Brude, as Scotland formed itself into a kingdom with a history they became distinctly severed off, and took their portion in the history of Norway.

On the mainland, to the north-west of the Moray Firth and of the line of lakes now joined by the Caledonian Canal, there was a territory over which, as we have seen, the King of Scots repeatedly tried to extend his dominion, but not with success. A Maarmor of Ross or of Moray, or a Yarl of Caithness, was always in insurrection or rebellion, as the later historians called it. The geographical distribution and the system of rule in these districts cannot be rendered distinct, and the only emphatic fact is, that the laws and rule of the Lothians and Fifeshire did not hold in them. In the northern end of the island, into which the current of Norsemen was strongest, the people spoke a Teutonic dialect, which on the western side of Scotland died away towards the south. Although there was a strong mixture of the Norse blood through the Western Isles and the adjoining coast of Scotland, yet the language of the Celtic races predominated there.

We have seen that these districts, along with a large tract upon the east coast of Ireland and the Isle of Man, formed a sort of naval empire, with the open sea as its centre and general channel of communication, the strength of its population—the seamen, or pirates as they are often called—having chiefly been supplied by those who fled from subjection. When the Norwegian kingdom was consolidated, the kings of Norway claimed empire over them, but were unable to assert it. Dublin, indeed, was the seat of their greatest line of rulers, the Hy Ivar, and that town bade fair to become the capital of the great maritime dominion, lying as it were between Ireland and Scotland. It was an empire of a peculiar kind, arising out of peculiar conditions; and when these passed away, it decayed under the pressure of those states which had a firmer hold upon the solid earth, leaving, unfortunately, but few distinct memorials of its internal nature. It appears to have been a wealthy community, enjoying luxuries and costly possessions, some of which are now found in our museums, where they are admired for their skilful workmanship and symmetrical decoration.[1] Their habits

[1] The following passage is from a book of small bulk, but full of learning and intelligence, the Geographical Illustrations of Scottish History, by David Macpherson (Isles): — "Under the government of these Norwegian princes the Isles appear to have been very flourishing. They were crowded with people; the arts were cultivated, and manufactures were carried to a degree of perfection which was then thought excellence. This comparatively advanced state of society in these remote isles may be ascribed partly to the influence and instructions of the Irish clergy, who were established all over the island before the arrival of the Norwegians, and possessed as much learning as was in those ages to be found in any part of Europe, except Constantinople and Rome; and partly to the arrival of great numbers of the provincial Britons flying to them as an asylum when their country was ravaged by the Saxons, and carrying with them the remains of the science, manufactures, and wealth introduced among them by their Roman masters. Neither were the Norwe-

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were no doubt of a kind which, if pursued at the present day, might be called piracy, but in their own day it was the natural effect of the possession of ships. Down to the eighteenth century there were few men having the untrammelled command of ships who could help using them for predatory purposes.

In Ireland the battles of Tara and Clontarf ended in crushing the power of Olave, the ruler of the Ostmen, at the commencement of the eleventh century, and restored the command of the native Irish sovereign, Dermot Mac Malnembo. Before this event Olave had a rival in Eric, a son of Harold Harfager, the tyrant before whom all the Norsemen professed to flee. Eric had gained the expressive title of Blode Axe, or bloody-axed, by the thoroughly practical way in which he carried out his paternal government; and his severities compelling him for a time to leave the country he was to govern, he attacked the Hebrides, and drove forth the representative of the Hy Ivar of Dublin, establishing a new dynasty under Magnus Haraldson. If Eric's enterprise was to bring the islands under the dominion of his father's crown, the result seems to have been unsatisfactory, since just before the end of the century the great Magnus Barefoot found it necessary to sail thither with a mighty fleet. After asserting the royal authority of Norway in the Orkneys, he fell with irresistible force on his fellow-country-

gians themselves in those ages destitute of a considerable portion of learning and of skill in the useful arts, in navigation, fisheries, and manufactures; nor were they in any respect such barbarians, as those who know them only by the declamations of the early English writers may be apt to suppose them. The principal source of their wealth was piracy, then esteemed an honourable profession, in the exercise of which these islanders laid all the maritime countries of the west part of Europe under heavy contributions."

men, who were ruling among the Western Islands too independently. The Irish headquarters being no longer available, he chose Man as the best seat of government for the whole archipelago. Magnus was afterwards killed in an effort to restore the Norse influence in Ireland. He left his son Sigurd as ruler of the Isles, but when he went to succeed his father as King of Norway the colony broke up again into separate independencies, the respective histories of which cannot be pursued to any instructive effect. There was a general division of the whole into Nordureyer or Norderies and Sudureyer or Suderies, the northern and southern division. The dividing-line was at the point of Ardnamurchan, the most westerly promontory of the mainland of Scotland, so that Iona was included in the Suderies.[1]

About the close of the twelfth century a chief or king named Somerled is found exercising a wide but undefined authority both in the Islands and that part of the western mainland which formed the territory of the ancestors of the Scottish kings. He was the husband of a daughter of Olave, who had succeeded to power as the representative of the race displaced for a time by the visitation of Magnus and the succession of his son. Of Somerled's own origin there is no distinct account. He is said to have been of Celtic family, and the power to which he raised himself is supposed to have brought the Celts of these dis-

[1] Hence the English bishopric of Sodor and Man—Sodor being the southern division of the Scottish Hebrides, and not now part of any English diocese. In its earlier days the bishopric would be under the primacy of Drontheim. The Bishop of Sodor and Man has no seat in the House of Lords, owing, as it is commonly said, to Man not having become an English possession when bishops began to sit as lords by tenure.

tricts under the paternal influence of rulers of their own race, but for this there seems to be no authority. Somerled, as we have seen, patronised the pretender to the maarmorship of Ross, and invaded Scotland in his behalf. Through conflicts of various kinds he became to be, if not the sovereign of the Isles and of Argyle, certainly the holder of the chief power over these districts. Altogether, however, both in his origin and the position he attained, he holds a shadowy place in history. His renown has come chiefly from the houses he founded. The Islands and Argyle, according to Highland story, were separated and inherited by his three sons, and afterwards subdivided among their descendants. If this be true, then the result of the ambition and ability of this chief of unknown origin was to break up the old ocean empire of the Norsemen. The traditions of nearly all the clans in the West Highlands and Isles carry back the ancestry of their chiefs to this mysterious Somerled.

It was only natural that as the Scottish kings increased in strength they should be desirous to annex these districts. When it was maintained that the absorption of the Isles and Argyle was only the recovery of the oldest possessions of the crown, it can be said that the same excuse for aggression has been made in countless other instances, ancient and modern, with far feebler justification; for these were in reality the cradle of Scottish royalty, and the eastern districts, which were the strength of the kingdom, were recent acquisitions. Accordingly, there was a pressure on the power of these western chiefs. Argyle became nominally a Scottish shire, with a Sheriff representing the crown. Demands were made here and there of the

chiefs to acknowledge feudal tenure on the Scottish crown, and it was in an expedition to push these requisitions that Alexander II. died at Kerrera.

Norway at last determined to put to a great issue the question of keeping as dependencies all the islands and the western districts on the mainland over which Norse chiefs had held rule. In the winter of 1262 King Haco issued warrants for a conscription for this purpose over all his dominions. He was a despotic king, and well obeyed. In the summer his mighty fleet assembled at Bergen. There his son Magnus offered to command the expedition; but the old king, though, as the chronicle says, he had reigned six-and-forty winters, would not depute so critical a command, and left his son regent of his kingdom. The fleet sailed to the Orkney Islands, where of course it was at home, and thence to Caithness, which was filled with Norsemen, not very tightly ruled by the Scots king, nor much devoted to him. Here there does not appear to have been any one who professed to represent the crown of Norway; but when he passed southward among the islands, the king had to deal with persons distracted by cruel difficulties. In the first place, they aimed at separate authority, independent of any superior. If they were to have a master, they were all too conscious of the nearness and increasing power of the King of the Scots; but here was for the moment another master at their doors, with utterly overwhelming power at his command. Yet there was one of them, a King John, who, according to the Norwegian narrative, flatly refused to aid Haco, because he had sworn allegiance to the Scottish king, of whom he held more land than of the King of Norway. In passing, Haco levied on the lords of Can-

tyre and Isla, who tendered him submission, a purvey of a thousand cattle; and if he received them, it is clear that these districts must have been well grazed.

In the Norwegian account of the expedition we read of many raids upon the coast, some of them pretty far inland. One of these was a feat so eccentric and original that it must not be passed over. A detachment or squadron of sixty ships, commanded by Magnus, king of Man, Haco's son-in-law, sailed up Loch Long. There they found that the narrow isthmus of Tarbet, quite flat, and only three miles across, separated them from Loch Lomond. They dragged some galleys over this impediment, and launched them on Loch Lomond. Along the broad eastern end of that lake stretches the district of the Lennox, one of the most fruitful in Scotland. This was fresh ground for pillage, and not likely to be guarded against marauders coming from so unlikely a direction.

The climax of the great expedition is reached when the main fleet of 160 vessels, sweeping round the Mull of Cantyre, casts anchor between Arran and the coast of Ayrshire. According to the Norwegian accounts, the Scots sent negotiators who would have been content to retain the mainland and the islands enclosed by it, Arran, Bute, and the Cumbraes, leaving the outer archipelago to Norway. The proud master of that great force, however, would give up nothing coming within his claims, and then it was observed that the Scots became shy of further treating, because winter was coming, and that a force was gradually collecting on the heights overlooking the Ayrshire coast.

That winter was propitious to Scotland. It was of the kind that at the present day would be recorded as

disastrous to shipping on the western coast. Storm followed storm, breaking up the mighty fleet of Haco, by vessels running foul of each other, or getting stranded or waterlogged, or dashed against the rocky shores. One of these disasters brought a crisis. Some galleys were stranded on the coast near the village of Largs. Their crews, when they got on shore, naturally met a hostile reception. The fleet sent assistance; but as more assistance was sent, still more was needed, as the hostile Scots were increasing in numbers. At last Haco resolved to do battle, and landed a force. According to the Norse accounts, they fought gallantly, but were overwhelmed by numbers. This is probable; but at the same time there does not appear to have been what could be called an army on the Scots side. There seems to have been little more than the old gathering of the country to resist an incursion of the Northmen, though perhaps there was more to defend, and better defenders, than there might have been a century earlier. There were, according to the Norse account, fifteen hundred mounted and mailed men-at-arms among the Scots. That any national preparation for defence had been made, however, seems improbable from all that comes to us on the Scottish side. The disaster to the Norwegians, when their fate compelled them to fight on shore, appears in the Scots chronicles as the battle of Largs, fought on the 2d of October in the year 1263; and it is not wonderful that the chroniclers, writing long afterwards, exult over it as a great victory. The shattered remnant of the Norse fleet had to work round the Mull of Cantyre, and then along the west coast, still tormented and suffering losses by foul weather, until they reached the Orkneys

There old King Haco died, on the 12th of December 1263.

In death the old Norse king was true to the spirit of his race, though Christianity had released the victim of unviolent death from the dismal eternity to which the old Norse creed consigned him. When he felt the hand of sickness on him he went to the church of St Magnus, then newly built, and one of the wonders of the age, and walked round the shrine of its martyred founder. Indeed, in all things he did his best to follow the precepts of his spiritual advisers; but the legends of old battle-fields got the better of the legends of the saints. He had read to him first the Bible, then the Lives of the Saints, but at last he demanded to have read to him day and night, while he was awake, the chronicles of the Norwegian kings, from Haldan the Black downwards.

Throughout the information we possess of Haco's expedition, it is clear that little preparation was made by the Government to meet it. We hear of no naval encounters, although Scotland possessed ships. There is no notice of any muster of the crown vassals.

Largs was indeed not a spot where a deliberate invasion of the country could well be expected, since it is extremely ill suited for troops forming in strength after landing. Elsewhere to the right and the left there might perhaps have been found navigable sea coming up at high tides to level ground; but here there is a narrow strip, with bluffs running right up from it. Troops marching along the strip in either direction would be flanked from the higher ground for many miles, and the alternative of passing through any of the narrow clefts which pierce the range of hills would have been still more perilous.

We hear in the earlier accounts of no commander to the Scots force, nor is it recorded that any of the great feudatories of the crown were present. This silence is made emphatic by the eminence given to the rank and splendid equipments of a Sir Pierce Curry, a knight otherwise unknown to fame, who was killed. The force seems, indeed, to have been a miscellaneous gathering of the peasantry, and as such it affords a forecast of that armed power which the country afterwards showed itself so capable of animating into life in time of need.[1]

When the elements had freed the country from its peril, the king sent a great force against the island potentates, now at his mercy. The Scots chronicles, as a supplement to the victory, tell us that severe vengeance fell on the island chiefs who had in any way countenanced the invader. Severity and cruelty were too much the order of such occasions. These chroniclers, however, writing long afterwards, required such results to supply the moral to their view of the conduct of men who are denounced by them as perfidious traitors to their king and country. To add another picturesque touch to this view, it is told how old Haco, when death approached him, believing it incumbent on him to leave behind the means of visitation on such wickedness, sent to King Alexander the letters inviting his descent, which he had received from those treasonable subjects.[2]

[1] In the absence of any other detailed account of this expedition, it is necessary either to pass it rapidly by as an unexplained incident, or to found on a little book called "The Norwegian Account of Haco's Expedition against Scotland, A.D. 1263, now first published in the original Islandic from the Flateyan and Frisian MSS., with a literal English version and notes by the Rev. James Johnston, A.M." 1782.

[2] See the Scotichronicon and Wynton.

This disaster was a blow keenly felt in Norway as a diminution of power. Three years afterwards, in 1266, Magnus IV., the new king, by formal treaty ceded to the King of Scots Man and all the Western Isles, specially reserving Orkney and Shetland to the crown of Norway. On the other hand, the King of Scots agreed to pay down a ransom for them of a thousand marks, and an annual rent of a hundred marks. There was no stipulation for homage or any feudal ceremony on the occasion.[1] In the year 1281 a bond of amity was established between the crowns by the marriage of the Scottish Princess Margaret to Eric of Norway.

There were some secondary troubles in this reign connected with the adjustment of the independent rights of the Scottish Church. In the rescript already spoken of, in which Pope Innocent IV. refused to comply with the demand made on the part of England about the crowning of the King of Scots, he also declined to authorise King Henry to draw the tax on benefices in Scotland, with the remark that such a claim by one prince on the dominions of another was unknown. In 1254 Innocent IV. granted to Henry a twentieth of the benefices in Scotland on condition of his joining the crusade. The arrangements for the disposal of the money to be thus raised were so shifted and adjusted from time to time, as to show that the Court of Rome held this to be a fund entirely at its own disposal. The money, however, though it seems to have been partly collected, was not permitted to cross the border. The king and the clergy were at one on this point, and had a practical excuse for the retention by fitting out a small expedition of Scots knights,

[1] Robertson's Index to the Charters, 101.

who joined the crusade, from which none of them returned.[1]

A taxation of church livings involved a rating of their value; and it is found that such a rating had been made, in part at least, as early as the reign of William the Lion. When the taxation of lands comes up for consideration, there arises a natural dispute if the value of the lands has risen. If there be an old recorded estimate of value, it is the interest of the payer of the tax to hold by that estimate, of the receiver to have a new survey. In 1275 there came to Scotland, commissioned from Rome, Boiamund de Vicci, commonly called Bagimond. His errand was to collect the tenths of benefices, and to have them rated according to their existing value. The Church stood tenaciously by the old practice, and prevailed on the Papal agent to return and represent their case at Rome. Whether his representations were earnest or not, they were not successful. He returned and completed his valuation. It was a permanent record, known as Bagimond's Roll, and was the foundation of ecclesiastical taxation down to the Reformation. It has been remarked that, whether from imperfect collection or some other cause, the Church profited little by the new valuation, and that it made but a trifling addition to the amount that would have been collected under the old practice. The subsequent history of Bagimond's Roll is as instructive as its precedents on the distaste of a progressive country for new valuations. After a time, the demand

[1] One of these, the Earl of Carrick, left a widow, who, by her romantic marriage with the son of Bruce, the competitor for the crown, became the mother of the great King Robert.

ever was to tax upon the valuation in Bagimond's Roll —not the existing value; and thus, centuries after the time when it had been resisted, both as a heavy tax and a badge of subjection to Rome, it was cherished as a vested privilege of the Church.[1]

There were other ecclesiastical difficulties, but they were not of magnitude, and ended well for the independence of the Scots Church. The Papal legate, Othobon Fiesci, proposed in 1267 to pass from England into Scotland, and there hold an ecclesiastical council. He was not admitted, apparently because he had been accredited only to England. The legate then demanded that the Scottish bishops, along with representatives of the lesser clergy, should meet him in a council to be held in England. Two bishops and two heads of religious houses were sent on the occasion; but it was not, as we are told, for the purpose of holding a council, but of protesting against any acts prejudicial to the Church of Scotland which might be done by any council assembled in England. Meanwhile the Church had been consolidating itself as a special institution, belonging to Scotland as a separate state. Several national councils—provincial councils, as they were called in the nomenclature of the Court of Rome—assembled. It was represented to the

[1] A valuable inquiry into the question how far we have existing evidence for the contents of this roll, along with an inquiry into the amount first realised under it, will be found in the preface to the Statuta Ecclesiæ Scoticanæ, p. lxv. *et seq.* "The whole amount received in the three years, beginning with the Feast of the Nativity of St John the Baptist, 1274, was £7195 sterling, or, on an average, £2035 a-year. This would not represent a yearly value of more than £20,350, being an increase of only £1688 on the yearly value, shown by the Antiqua Taxatio."

"Boiamund died before the collection of the tax was completed. The gathering in of the arrears was intrusted to certain merchants of Florence, Sienna, and Lucca."—Ibid.

head of the Catholic Church that such provincial councils were necessary for the due observance of the laws and injunctions of councils-general, especially in so remote a district as Scotland. It had become a rule of the Church that metropolitans presiding over ecclesiastical provinces were annually to hold provincial councils for the enforcement of the laws of the Church, the reformation of manners, and the other functions proper to such bodies. Scotland had as yet no metropolitan. It is likely enough that there was hesitation as between either of two strong measures—conceding the English supremacy, or making one of the Scots bishops supreme by the established form of sending a pallium to him. At all events, the course taken was of a middle kind. In the year 1225 a bull was issued, authorising the Scottish Church to assemble in council without special Papal authority, or the presence of a legate. At the assemblies so held a code of laws or ecclesiastical canons was adopted. It contains fifty-nine statutes or short chapters, of which it may be said that they do not so far depart from the ordinary institutions and practice of other churches as to afford those marked peculiarities which give a distinctive character, and a sort of picturesqueness, to the ways of the Church of Scotland in earlier ages. They are, in great measure, adaptations from the English ecclesiastical laws. So much about the date of this code is known that in its complete form it cannot be so old as the year 1237, yet must have been in existence before the year 1286.[1]

[1] Preface to Statuta Generalia, liv. This code, which first appeared in the Concilia of Wilkins, to whom it was supplied by Ruddiman, was reprinted by Mr Hailes in the third volume of his Annals. The authoritative version will now be that of Robertson's Statuta.

Few states could, in that age, look forward to a more serene and prosperous future than Scotland after the battle of Largs. A son was born to the king. The chroniclers have it that he was told this on the day when he got news of Haco's death. A king, not yet forty-four years old, with two children and a grandchild, gave a tolerable promise of undisputed succession. A dangerous enemy was humbled and thrown to a distance, and the English claims seemed a thing of the past. The fate of nations, as we have seen, had come to depend, more than of old, on genealogical conditions, which dictated the succession to royal houses, insomuch that the events which plunge a family in grief might also be a real calamity to a people. A succession of such calamities followed close on each other. In preparation for them we may count the death of Henry III. in 1272 as a calamity, in that it bequeathed the opportunities offered by the others to a spirit so capable, vigilant, and remorseless as that of Edward I. King Alexander, who was of like age with his brother-in-law, got over successfully any difficulties about homage at the coronation, exempting his right as a free sovereign from his obligations, and all went smoothly for ten years;—so at least it appeared upon the face of history. Nothing comes up in the course of public known events to disturb or alarm Scotland about the designs of the English king; but there is a small entry in the English records in the Tower, which afterwards did disturb the champions of national independence and create hot discussion in the great literary war about the homage question. There is a transcript of a Close Roll of the sixth of Edward I. (1278), recording that the King of Scots came to

Westminster to proffer his homage. We are thus prepared for the method of the homage, limited or unlimited, and are told that it was complete and comprehensive.[1] It could only be said that this was the English version of the affair, which could not be justly pleaded to the prejudice of Scotland. A zealous Scot, however, determined to see with his own eyes if it were so written in the bond, found that the passage had been inserted on an erasure. It was thus evident that the roll originally contained something which it was desirable to replace with something else.[2]

It happens that a scribe of one of the oldest of the Scottish monasteries, as if to guard against any such treachery, kept a note of the precise form of the ceremony of homage and of its conditions. These, according to his sense of them, were very emphatic:—

"In the year of God 1278, on the day of the Apostles St Simeon and St Jude, at Westminster, Alexander, King of Scots, did homage to Edward, King of England, in these words:—'I become your man for the lands which I hold of you in the kingdom of England, for which I owe you homage, saving my kingdom.' Then said the Bishop of Norwich, 'And saving to the King of England, if he right have, to your homage for your kingdom;' to whom the king immediately answered, saying aloud, 'To homage for my kingdom of Scotland no one has any right but God alone, nor do I hold it of any, but of God.'"[3]

[1] "Et illud ei fecit in hæc verba: 'Ego, Alexander, Rex Scotorum, devenio ligius homo domini Edwardi, Regis Anglorum, contra omnes gentes.' Et idem Rex Angliæ homagium ejusdem Regis Scotiæ recepit."

[2] Allen's Indicator, p. 87.

[3] "Cui rex statim respondit aperte dicens, 'Ad homagium regni mei Scociæ nullus jus habet nisi solus Dominus; nec illud teneo nisi de

While such weapons of contest were preparing in the recesses of cloisters and record-houses, troubles more palpable and public were at hand.

In 1283 came the news that the king's daughter, Margaret, Queen of Norway, had died, leaving a newly-born daughter. Within a few months the king's son, Alexander, married to Margaret, daughter of the Earl of Flanders, died also.

Here at once the country was in a sea of difficulties. We have seen that in England, rather more than a century earlier, the law of succession had not become so exact as to fix whether an heiress should succeed to the crown or should be absolutely excluded. Such a question was a like novel criterion of the rule of succession in Scotland. Had there been so near a relation as an uncle—a brother of the late king—to rest upon, there is little doubt that he would have succeeded Alexander. It was known that there were several expectants of the succession, but they were all distant collaterals. What was far more serious, however, they were all Norman barons, with possessions in England as well as Scotland. There was no doubt, although Norman names are then so conspicuous in great state transactions in Scotland, that there was a strong middle class, backed by a peasant and burgher class, who disliked the Norman intruders, and felt a horror of any subjection to a Norman government such as England had now been suffering under for two hundred years. To them it appeared that Scotland was drifting towards such a fate, with nothing at present existing

solo Domino.'"—"De homagio quod fecit Alexander Tercius, Rex Scociæ, Edwardo, Regi Angliæ, pro terris suis quas habuit in regno Angliæ;" Register of Dunfermline, p. 217.

but the frail child away in Norway to protect them. Whether it should be the English king himself, or one of those Norman magnates surrounding his throne, that was to rule, would make little matter; it would still be Norman rule.

Impelled by such a prospect, there was a determination at once to render the succession of the child as secure as it could be made. The Estates met at Scone so quickly after the news of the prince's death, that their resolution was made contingent on a posthumous child being born by his widow. Saving such an event as the king having children, it was resolved that the crown should go to the Princess of Norway.

Soon afterwards, in 1285, the king married Joleta, the daughter of the Count of Dreux. It happened that within a few months afterwards, the 12th of March 1286, he chose to ride in the dark along the coast of Fife opposite to Edinburgh. Near the present burgh of Kinghorn he had to pass over a rugged promontory of basaltic trap. He was pitched from his horse over one of these rocks and killed. Such was the final calamity, opening one of the most gloomy chapters in the history of nations.

Within a month the Estates had met at Scone and appointed a regency to govern the kingdom in the absence of its queen. The formation of this body kept up the peculiarity that the country was divided into two communities by the Forth. Three guardians were appointed for the southern district, the old Roman province, and three for the northern, the Scotland that a century earlier had been bounded by the Forth as the Scots water. Each set consisted of a bishop and two barons. Of the northern guardians the Earl of

Fife was murdered and the Earl of Buchan died, so that as ruler of that district there remained the bishop only, Fraser of St Andrews.

There was now much stir among the collaterals. The nearest male relation of Alexander was Robert Bruce, the grandson of Earl David. It has been seen that, more than forty years before, Alexander II. had arranged that if he died childless Bruce should succeed to the crown. He was then the only male representative of William the Lion's brother, Earl David, but there were now other male descendants, and even in the imperfectly formed genealogical notions of the day that altered materially the power of his claims. Still he was in a position to indulge in high hopes, and showed a disposition to realise them if he could. He assembled his retainers and took an attitude of such decided menace that in the subsequent competition for the crown he was charged with rebellion against his queen by marching against her fortresses with banner displayed, and especially by assailing and seizing her Castle of Dumfries.[1]

He indulged in the hope that King Edward would even now, and while the young queen lived, help him to the throne. There is extant a document in which he threatens the guardians that in case they should choose John Baliol to be king, as he hears they intend, he

[1] In Baliol's pleading of his cause before King Edward, of which hereafter, it is set forth that Bruce and his son, the Earl of Carrick, attacked the Castle of Dumfries with banner displayed, and drove out the garrison. The record is imperfect, but it charges him with taking liberties with another royal castle. Its name cannot be read, but Sir Francis Palgrave thus renders the incident:—"He then caused a proclamation to be made by one Patrick M'Guffok within the bailey of the same castle. The tenor or subject of this proclamation cannot be precisely collated."—Documents illustrating the Hist. of Scot., 42; Introd., lxxx.

shall put himself into the hands of the King of England. His threat is backed by seven earls, and supported, according to his assertion, by a body of the community. This curious document is silent on two points. It says nothing about the existence of the child who was held to be the Queen of Scotland, and it says nothing about a right of superiority over Scotland in the monarch to whom he threatens to appeal for the enforcement of his rights. He was King Edward's subject; and, denied his rights elsewhere, he would throw himself on his lord and master for aid and protection. But there is something in the tone of the threat to show that, if he must take assistance from such a quarter, he was likely to hold Scotland of the master who would give it to him.[1] Bruce was, how-

[1] All that we know about this threat is scattered through the provokingly fragmentary morsels from some parchments in the English Treasury, which have been preserved and printed by Sir Francis Palgrave in his volume of Documents and Records illustrating the History of Scotland. Probably the accuracy of the transcripts given by Sir Francis will never be tested by comparison with the original fragments, nor need it. The devotion of this zealous antiquary for the purity of texts was so ardent, and his skill in deciphering was so great, that any one going over the originals, and taking a different reading of any passage, would at once admit himself in error and accept of the reading printed by Sir Francis, both in the parts where he is able sometimes to give a sentence nearly or actually complete, and in those where he can only make out a few fragments of words. There is not, however, the same implicit reliance when Sir Francis draws large conclusions from his painfully deciphered fragments. Because Robert de Bruce threatened, or appears to have threatened, the guardians with the interference of his lord King Edward, one is not disposed to consider this as evidence of a complete understanding among all concerned that King Edward was Lord Superior of Scotland. The terms used, so far as the fragments retain them, are quite different from those which Robert Bruce used afterwards when he pleaded his claim before Edward, and called him Lord Superior of Scotland at every turn. The strongest terms he uses in his threat announce his determination to stand "protectione et defensione predicti domini Regis Angliæ et corona sua regia," but in his pleading for the crown the

ever, suddenly silenced—so suddenly that the chronicles give but a faint echo of his having stirred at all. We must suppose, therefore, that he got some significant hint from that master of whom he held such solid estates as might well outvalue a shadowy crown.

Looking back upon this crisis through the light of events happening a few years afterwards, we find a very noticeable blank, though the Estates and others concerned in Scotland were probably unconscious of it. Here again the succession to the crown of Scotland

phraseology is "coram præfato domino nostro Rege, tanquam coram superiore seu directo Domino Regni Scotiæ." The pleadings, of which some account will come in the right place, are rife with such expressions, but it would not have been safe to employ them in Scotland even when Sir Robert was threatening the guardians. In fact, so far as a tone can be taken from the incoherent morsels of his threat, he seems to have come forth in a form familiar enough in smaller affairs—that of the dependant of a man of power bullying persons humble but independent, and threatening to bring his master down upon them. Mr Carlyle would find here a thorough specimen of that psychological phenomenon which in his technical nomenclature is known by the term "flunkeyism." People are not accustomed to associate such characteristics with the name of Bruce; and as we shall meet this member of the family again, it may be as well to keep distinctly in the mind that it was not he, but his grandson, who was the hero of Bannockburn.

The fragments found by Sir Francis in the Treasury were not only satisfactorily conclusive to him in the matter of the supremacy of England, but convinced him that there existed in Scotland a remarkable constitutional body—a board, as we would call it at the present day—consisting of Seven Earls, who, among their other functions, had the settling of the succession to the crown in all cases of difficulty.

In fact, the editor's comments on the valuable documents which he had the merit of finding and preserving, exemplify a frailty to which the skilful archæologists who deal much in manuscript authorities are liable. They are apt to give undue importance to the weight of any new matter they have been so fortunate as to discover, and so to contort the features of history. The greater and the more valuable part of the materials of history has been no doubt brought into existence by those who have gone to such sources, yet at any one point the matter specially known to some skilful decipherer is but small in comparison with what is in print, and known to all who care to seek for it.

Though it is vain work to look for something like a board of control

opened to a minor; and if the King of England had been, as soon afterwards he said he was, the Lord Paramount of Scotland as a fief of the English crown, it was not only his right, but his feudal duty, to take on himself the management of the affairs of the fief. Further, it evidently should have been a serious matter for his consideration whether it was to be admitted that Scotland was so exceptional among sovereign fiefs as to be descendible to an heir-female. The lord superior had great interests at stake, and everything to say in such a matter. A superior with an heiress

or an electoral college so constituted, yet a reference to seven earls is common in old records, and provocative of curiosity. In a document in the chartulary of Dunfermline, a certain act of feudal investiture is referred to, and its date is identified by the day on which St Margaret's remains were removed to the high altar of Dunfermline (see vol. i. p. 414). To mark the event of removal, it is said to have been made in the presence of King Alexander III., seven bishops, and seven earls of Scotland—"septem episcoporum et septem comitum Scotiæ" (Register of Dunfermline, 235). In one of the chronicles, an attack on Carlisle by the Scots in 1296, to be afterwards mentioned, is said to have been made under the leadership of seven earls whose earldoms are given—Buchan, Monteith, Strathearn, Lennox, Athole, Mar, and Badenoch. "Quo tempore septem comites Scotiæ, videlicet de Bowan, de Moneteth, de Stradeherne, de Lewenes, de Ros, de Athel, de Mar, ac Johannes filius Johannis Comyn de Badenan, collecto exercitu."—St Alban's Chronicles, Rishanger, 156. Seven earls of Scotland were said to have been slain at the battle of Neville's Cross. Mr E. W. Robertson, in his Scotland under the Early Kings, has commented in his usual impartial spirit on Palgrave's discovery, and notices the old reference in the tract De Situ Albaniæ to the tradition about the seven provinces of Pictland (ii. 504). The mystery will probably be solved some day, and found to be very simple. Other parts of the world have been vexed by this "mystic number seven," as it is termed. The Saxon kingdoms were still called a Heptarchy when it is certain that seven was not their number. But everything in Britain must yield to the scale on which the mystic figure worked in Ireland. We are told how "the fact that Aengus was able to enumerate 141 places in Ireland where there were or had been *seven* contemporary bishops, seems to indicate the existence of an institution founded upon the mystical *seven* of the Apocalypse."—Todd's St Patrick, 35.

vassal to dispose of had gained a prize in the feudal lottery, which no ordinary man would neglect. A monarch who afterwards, as we shall see, was so punctilious in giving due weight to all rules of law and personal rights, might have been expected to look to all these things. It was not his policy, however, at that point of time, to proclaim himself the Lord Superior of Scotland, and none of the diplomatic documents to which he was a party give a hint of such a claim, though afterwards his scribes were careful to make frequent repetition of his title of Lord Superior in all documents which concerned Scotland. His designs were of a kind which required accomplices to complete them, and he waited until events gave him accomplices.

His first policy, however, rested on conditions quite different from those with which he ultimately had to deal. He had then a secret intention divulged no farther than was absolutely necessary for accomplishing the first steps towards it. He had, in fact, obtained a dispensation from the Pope to enable his son Edward to marry the infant Queen of Scots—they were cousins-german, and so within the prohibited degrees by the canon law.

So stood matters when King Eric sent to England certain commissioners or ambassadors. What urged him immediately to this step, or what he expected to gain by it, it is not easy to see, but it became the function of these representatives to look after the interests of the young queen. Edward asked the Scottish regency to send commissioners to meet them. Four were appointed—the Bishops of St Andrews and Glasgow, with Bruce and Comyn. They had powers to treat, which excluded all acts prejudicial to the nationality

and public interest of Scotland. Commissioners were appointed by King Edward, and the three commissions met at Salisbury. It was a vague conference. If the great secret of the designed marriage with the Prince of England was known to those present, no discussion on it appeared in their proceedings. It was promised for Norway either to send the young queen to Scotland, or to send her to England free of matrimonial engagements. For England something was said about the necessity for establishing good order in Scotland, and that being accomplished, the young queen, if in English hands, should be transferred free to Scotland; but there was a condition of some significance, that security should be given that she would not be bestowed in marriage except by Edward's advice, and with the consent of King Eric, her father. The Scots promised the establishment of good order, and offered to remove any of the guardians who might be obnoxious to King Eric.

It seems to have been immediately after this meeting that the Scots heard of Edward's intention about the marriage, and it was discussed at a meeting of the Estates. Edward was besought by them to tell if this were true, in a shape which showed that they caught eagerly at the proposal; and with like eagerness they urged King Eric to send over their young queen. Edward must have admitted his project, for we find him assuring the Scots that he could use influence to make Eric send over the child, and he was urged to use that influence, since it appeared that her father was reluctant to part with her. It is clear that, whether wisely or not, the Estates thought that the chances for Scotland were better in a marriage of their queen with the King of England that might be, than in

leaving the throne to encounter the dangers then in prospect.

Meanwhile they did their best for the protection of the country by a solemn treaty. It was accepted by the clergy, nobility, and whole community of Scotland, assembled at Brigham, near Berwick, on the 18th of July 1290. It provided that the rights, laws, and liberties of Scotland should continue entire and unviolated; the kingdom of Scotland was to remain separate from England, divided by its proper marches; no crown vassal should be bound to go beyond the boundaries of Scotland to do homage to a sovereign residing within England, but when necessary a commissioner should be appointed to receive the homage within Scotland; no native of Scotland was to answer beyond the marches in a civil cause, or for a crime committed by him in Scotland; no parliament was to be held outside the boundaries of Scotland to discuss matters respecting the kingdom; and lastly, among matters dealing more with mere detail, one touched an important point. Care was taken that there should be an entirely national Great Seal, always to be held by a native of Scotland. There were stipulations of a general tenor, reserving all rights existing in the King of England or others as to the marches or elsewhere, and some have thought that these conditions virtually neutralised the whole. They would have gone for nothing, however, in any interpretation of the treaty, and its specific conditions were as strong a protection to the nationality of Scotland as parchment could create. King Edward himself afterwards certified in the strongest way its efficiency as a treaty, by requiring that Baliol, on obtaining the crown of Scotland at his hands, should cancel it.

King Edward's first act after the acceptance of the treaty must have startled the Estates. He sent Anthony Beck, the warlike Bishop of Durham, to act, in concert with the guardians of Scotland, and with the advice of the Estates, as lieutenant for Queen Margaret and her husband,—and this in order that he might be able to keep the oath he had taken to maintain the laws of Scotland. He next demanded the possession of royal strongholds in Scotland, on account of some suspicious rumours that had reached him. It is open to any one to maintain, and but for Edward's subsequent career it might have been plausibly maintained, that he was here influenced by a determination to protect the kingdom against the pretenders to the throne.

There was at that time written to King Edward a letter by the Bishop of St Andrews, which became memorable, and has to be referred to further on. The letter expressed gratitude for a message brought from King Edward, whence it is to be inferred that he took graciously the refusal to give up the castles. The satisfaction from this petty success was, however, clouded by the rumour of an event likely to overwhelm this practical difficulty, and all others of its kind, in far more momentous issues. The rumour was confirmed, and it became known that the young queen—the Maid of Norway, as she was called—had died at Orkney, on her way to Scotland, in September 1290.

CHAPTER XVI.

Progress of the Nation to the War of Independence.

TOPOGRAPHY—BOUNDARIES OF THE COUNTRY—THE PROVINCES—CAPITAL TOWNS—MINOR TERRITORIAL DIVISIONS—SHERIFFS—THANES—MAARMORS—PROGRESS OF FEUDALISM—LAWS FOUND BY FEUDALISM—FICTITIOUS CODES—THE REGIAM MAJESTATEM—CRITICAL LITERATURE ABOUT IT AND OTHER EARLY LAWS—LOCAL CODES, LOTHIAN, GALLOWAY, ETC.—PECUNIARY MULCTS FOR OFFENCES—MONEY VALUE OF THE CITIZEN—COMPARISON WITH THE SPIRIT OF THE ROMAN JURISPRUDENCE—INFLUENCE OF SPIRIT OF NEIGHBOURLINESS AND COMMON RESPONSIBILITY—SPIRIT OF FAIRNESS AND HUMANITY—SPECIMENS OF ANCIENT LAWS—ORDEALS—BATTLE—RISE AND INFLUENCE OF MUNICIPALITIES—PROTECTION TO LIBERTY—NO MAGNA CHARTA, OR CHARTERS OF THE FOREST—NOT REQUIRED.

We have now reached a critical period—it might be called *the* critical period— of our history. For some time to come every year has its own trouble in danger and contest; and when these years of trouble are over, the community emerging from them is different in many essential elements from the community upon whom they opened. The opportunity, therefore, seems suitable for casting a glance at the condition, so far as we can make it out, in which this period of difficulty found the country.

The history of the contests in the outlying districts has shown the difficulties which the authority of the

King of Scots had in passing to certain territories in the north and the west, which, in the end, came under his rule. We have seen how the term Scots was first applicable only to natives of Ireland; how it crossed the Channel, and included the descendants of those Irish who had settled in Argyle; and how, at last, the monarch ruling from the Tweed and the Solway northward was named the "King of the Scots." Still that was a colloquial expression, such as we use when we design the United Kingdom of Great Britain and Ireland by the word Britain, or England. The King of the Scots, when he issued his charters as a notification to all classes among whom he held rule, called them Francs and Angles, Scots and Galwegians. The Francs were the Norman settlers, and had become so numerous as to be a great element in the population. The Angles were the refugee families who had fled from Norman tyranny in England, and perhaps the whole population of the Lothians was so called. The term Scotia or Scotland at this time meant the country north of the Forth. This river, with its Firth, was called "the Scots Water," and Lothian and Galloway were as yet countries only united with Scotland under the same crown. Thus, among the earliest of the public laws—those attributed to William the Lion—there is a regulation by which an inhabitant of Scotland, making a seizure or distraint beyond—that is, south of—the Forth, must bring it under the notice of the sheriff of Stirling—spoken of sometimes as a town on the border of Scotland—and convey it to Haddington, where it may be redeemed.[1]

[1] "Nemo de Scocia debet accipere namum ultra aquam de Forth nisi prius ostenditur vicecomiti de Strivelin."—Assisæ Regis Willelmi, xxvii.

By the same old law, certain places are appointed in Scotia to which all legal writs should be returned, and these may be counted, so far as a declaration or regulation could make them, the local Capitals of their respective districts. They were—for Gowrie, at Scone; for the Stormonth, at Cluny; and for Strathearn, at Kyntinloch—a place now lost out of local nomenclature, but supposed to have stood where Perth now is. All these districts were in Perthshire, and showed that there the centre of Scotland proper stood. For the district of Athole, the central station was at Rait, near Kingussie in Inverness-shire; for Fife, at Dalgynch, a place of disputed site; for Angus, at Forfar; for the Mearns, at Dunnottar; for Mar and Buchan, at Aberdeen; and for Ross and Moray, at Inverness.[1]

We find no decided tendency in any town or fortress to aggregate to itself the conditions of a national capital. The King of the Picts was said to have had his capital successively at Inverness, at Fort-Teviot, a few miles south of Perth, and at Abernethy, on the south bank of the Tay. The King of the Scots, while he ruled only in the west, is said to have held court at Innerluchty, or, as it is now called, Fort-William; while the King of Strathclyde had his at Alcuin or Dumbarton. But these are capitals only in the magniloquent language of the chroniclers, which will accept of nothing less than an empire with all its parts complete, though dealing with a community which is but faintly articulated out of the general chaos. That the rulers of the districts occasionally frequented such places, is all that can be authenticated towards making them capitals.

[1] Assisæ Regis Willelmi, xiv.

As the state broadens and consolidates, these annalists are less apt to find a capital for it, because more is known of its actual internal organisation. Scone at Perth, where the Stone of Destiny was kept and there was a favourite royal residence, bade fair to become the centre of government; but in wealth and importance it was exceeded by Berwick. Dunfermline was a favourite royal residence; and we find the king issuing his writs from Edinburgh and Roxburgh, and successively from various other places in which he sojourned for the time.

We shall have to deal farther on with the burghal communities, and the influence of their trade and special privileges in creating towns. We have seen something of the local divisions into dioceses and parishes, created by the progress of ecclesiastical organisation. There was another great local division, for purely civil purposes, into Counties, Shires, or Sheriffdoms. In England, the distinct partition between the several Anglo-Saxon kingdoms drew several strong lines of demarcation, which served as boundaries to counties. In Scotland the counties, as they exist, became gradually marked off or articulated, through that aggregating force in the growth of feudal crowns already alluded to, which took shape in converting independent local potentates into representatives of the crown, or in setting down such representatives to exercise a joint authority with them. This was met by a counterforce equally feudal in its nature, by which the office of representative of the crown had a perpetual tendency to become hereditary, and so all but independent of central authority. The contest of these two forces makes great confusion in the early

growth of sheriffdoms, which becomes mixed up with that of the feudal nobility. We have Thanes, Earls, and Counts—all terms in some measure synonymous with Sheriff, and all on occasion nominated by the crown; yet afterwards comes, as a new missionary to give effect to the royal authority, this same Sheriff or Shire-graff.

There came, however, to be this much of distinction between the sheriff and the other local dignitaries, that the sheriff, whether hereditary or not, was nominally the servant of the sovereign, and that all his official acts as sheriff were, or ought to be, for the benefit of the crown and the furtherance of government business. Further, while the territories over which the other local dignitaries exercised authority depended on the extent of their own feudal rights of property or superiority, the sheriff's authority came to be determined by a fixed arbitrary limit—the boundaries of the shire or county.

But even to this, as a general rule, there were exceptions; for special rights of sheriffdom over detached pieces of territory were conferred on families of special local influence. Others held Baronies, which conferred the right of holding courts of justice, with certain limited powers; or Regalities, which conveyed a like right with much higher powers. Taking in at a general glance the writs in which such judicial powers are dispersed among the leading families all over the country, a natural first impression is that the crown had profusely alienated to subjects the power and responsibility of administering justice. But in reality the process was ruled by another of the specialties of the growth of the feudal monarchy already

referred to. The sovereign could not well help doing as he did, and the act conveying the power virtually restrained it within certain limits. The central power of the government was not yet strong enough to supersede that of the local magnates, and the crown conceding certain powers, which these consented to receive in full of all demands, was a virtual compromise.

It is scarcely more than putting in another form this estimate of the limited power of the crown to say, that there was not sufficient central machinery to transact the judicial business of the nation. The Chancellor does not appear to have yet become a judge. We hear of the Justiciars or Chief Justices—one, at least, for the territory north of the Forth, another for Lothian. The king sitting in the sort of supreme council, which we shall presently have to look at, did justice, but in great questions only. Among the fragments of King David's ordinances, one prohibits any of the lieges from bringing his plea before the king himself, unless he has first brought it before his lord, or the sheriff, or bailies having jurisdiction in the place; unless it be one of the great pleas of the crown.[1]

Hence out of necessary conditions arose what appeared to be a profuse and reckless distribution of local powers. Their utmost stretch was expressed when it was said that a hereditary jurisdiction extended to "pit and gallows." The one term probably expressed distinctly enough the character of the prison kept by the feudal lord, the other needs no explanation. In after times, as the power of the crown enlarged, the tendency of the central government was to treat these seignorial powers as abuses, and to check

[1] Assisæ Regis Davidis, c. 24; A. P. i. 10.

or neutralise them when they could not be eradicated; but they had grown with the power of the crown itself, and became nearly as tough and indestructible.

Such seignorial rights were in many instances conferred on churchmen, as attached to bishoprics and to abbeys, or other monastic houses; and here a balance was perhaps in some measure established against the pressure of the hereditary jurisdictions, the influence of which was met in another direction by that of the burghal communities.

The present is not a proper place for an elucidation of the minute specialties of this intricate articulation of powers and dignities, even if there were the means of accomplishing that task with precision. It must suffice to mention another and peculiar element which remained for some time after this period among the seignorial institutions of Scotland, that of Thanage. This is a well-known old Saxon institution, but better known than loved by all readers of Saxon history from the intricacy and confusion besetting all attempts to define its nature. It was swept away before the strict Norman feudality of the conquest, but it subsisted long afterwards in Scotland; and as the Scottish thane was the contemporary of thoroughly feudal institutions, his nature and functions came to differ from those of the extinct Saxon institution, and thus added a new difficulty to the task of any one who might attempt to explain the dignities, powers, and duties of "a thane." The institution was special to the northern districts. We have seen how, in the north, a Maarmor appears to have struggled with the King of Scots for an independent authority. In these districts there are found, as history dawns on them, chiefs of

lower grade having the title of Toshachs. The Maarmor and these seem in some way, through the pressure of the crown, to have resolved themselves into an Earl of Ross, and certain thanes whose authority and rank were inferior to his. The earl of course had his title from the crown, and the thanes also were crown dignitaries — nay, it has been thought that, like the sheriffs, they were servants of the crown appointed to see after the feudal taxes and other crown interests in their respective districts. But supposing all this to be fully established, there is a mystery about these Scottish thanedoms uncleared. The title being an innovation supplanting that of older local authorities, it is naturally supposed to have come from England with other southern usages when Queen Margaret and her followers flocked to the court of King Malcolm. Yet it is not in the southern districts frequented by these strangers, but far to the north and beyond the Grampians, that the institution is found in its vigour; and it is hardly a satisfactory reason for this to say that the strangers who flocked into Scotland were partly Norman and partly Saxon, and that the Norman institutions naturally established themselves in the south, and the Saxon in the north.[1]

[1] "Rarely met with in the south, thanedoms are found mostly in Angus and Mearns and the northern shires down to the Moray Firth. We must not expect to find them in the fertile plains of the Lowlands, which were speedily and entirely occupied by the southern settlers, become feudal Barons; nor yet in the inner fastnesses of the mountains, where the Celtic institutions, unmodified, excluded the Saxon title or office. But along the borders that separated the races, along the southern foot of the Grampian hills, through the braes of Angus and Mearns, in the hilly skirts of Aberdeen and Banff, where the sovereign had established his dominion, imperfectly it may be, but had not driven out the native people, we find numerous thanes and lands held in thanage. In the narrow country between Findhorn and the Nairn we have four,

Enough has been said, perhaps, to prepare us for viewing the Scotland of the latter part of the thirteenth century as a thoroughly feudal state; at all events, through all its authorised channels of announcement committed to the records, and so brought down to our present notice, the whole constitution was feudal. Customs antagonistic to feudality no doubt prevailed in the districts of the north, and those chiefly inhabited by Celts. These customs were so tenacious as to have been troublesome within the memory of persons still living. But they had no place in acknowledged law or record; and if they showed themselves in action, and so disturbed the feudal harmony of the predominant system, history took no further notice of such collisions than to drop some judicious remarks about the suppression of insurrection and turbulence, and the firm assertion of the powers of the law.

Of the feudal system thus prevalent we can expect no account in any edict or code by which it was adopted. It had its commencement not in precept but in practice, and grew by degrees. The very supposition of its having been promulgated by any supreme power is illogical, since it created in its own growth the whole power of the state, from the king downwards. It would be interesting, if it were pos-

some of them of very limited extent,—Dyke, Brodie, Moyness, and Cawdor. Archibald Earl of Douglas granted to his brother-german James of Douglas, the barony of Petyn, the third of Doufhous and Awasschir, and all the lands lying within the *Thaynedomeis* in the lordship of Kylmalaman (*Kilmalemak*) in the sheriffdom of Elgin; confirmed by Crown charter of James I. *a. r.* 21-1426. We meet with at least fifty thanedoms named in Scotch charters."—Innes's Sketches, pp. 397, 398.

Here, and in Mr E. W. Robertson's Scotland under the Early Kings, App. N, will be found all the available learning on this troublesome point.

sible, to examine how it gradually superseded old forms of administration, whether Celtic or Norse; but though we might follow the advance of feudalism over the country with some approach to accuracy, what it displaced has left but faint and indistinct traces. In what may be called the Public Institutions we have scarcely a trace of anything Celtic. It is usually supposed that the reign of Malcolm and Margaret was the turning-point at which the court which had been Celtic became a Saxon court, with a dash of the Norman to adorn it, but of this we cannot be sure.[1]

Though we must look to the records of actual transactions to find the establishment of feudalism as the radical constitution of the state, it does not follow that we are not to possess an ancient code of laws for the regulation of private rights and obligations—for the adjustment of the domestic relations, the enforcement of contracts, the suppression of crime, and the like. The possession of some such ancient code has been the boast of nations from time immemorial—a boast for which they have often been indebted to the indolence of historians. There are difficulties, often ending in utter disappointment, in tracing consuetudinary laws to their origin; but once find that a Plato or Lycurgus made them—all at once there is trouble saved, the investigator is able to parade a great and picturesque historical character, and the reader has the whole affair simplified to his hand. Hence the long lists of institutions credited collectively to a Charlemagne or an Alfred. Wales had its code of laws bequeathed by the celebrated Howel Dha, and

[1] See above, the considerations connected with the appearance of a Highland sennachie at the coronation of Alexander III.

Scotland was not behind her neighbours in such pretensions; she long boasted of the collection called the Regiam Majestatem, a full and carefully-matured code of laws adapted to the purposes of a great and civilised state. It was the fruit of the skill and learning of the Scots lawyers of the twelfth century, stimulated by the enlightened policy of King David —hence called the Scottish Justinian. In the year 1425 this collection is referred to in one of the statutes of King James I., in which a commission is appointed "to examine the buiks of the laws of this realm—that is to say, the Regiam Majestatem and the Quonium Attachiamenta—and amend the laws that needs amendment."[1] With the exception of a passing doubt by authors so critical as Sir Thomas Craig or Lord Stair, the collection was received with acclamation by the commentators and the practical lawyers; and it was matter for national satisfaction and pride when a commission appointed in Queen Mary's reign to revise and publish these old laws completed their functions. So implicitly did public faith continue to rely on this code as a national treasure, that when Lord Hailes, at the beginning of the present century, published "An Examination of some of the Arguments for the High Antiquity of the Regiam Majestatem," his telling criticism was received with a sort of surly discontent, as an unworthy effort to dispel a pleasing vision.

Sir Edward Coke, when, perhaps, he desired to write in a way that would be not unpleasing to the king sent by Scotland to England, remarked, that although in recent times the two kingdoms had been separate and independent, yet the ancient constitution and laws

[1] Act, 1425, c. 10.

of both were nearly indentical, as might be seen by comparing the Regiam Majestatem, which contains the Scotch books of the common law, with the English collection of Glanville.[1] Here he touched, though by way of with a friendly finger, the impediment that was not to be got over through the aid of the most sanguine nationality. It was, of course, an immediate conclusion with some that the Englishman had stolen the laws of St David for the enrichment of his compilation. In the end, however, it was set beyond all doubt that the Regiam Majestatem is little else than a transcript of the Treatise on the Laws and Constitutions of England, attributed to Randulph de Glanville, Chief Justice of England in the reign of Henry II.

A theory was started which might retain the Regiam as a national code without denying its obligations to Glanville. Edward I., when he deemed himself undoubted master of Scotland, appointed a sort of mixed commission of Englishmen and Scotsmen to report, on the compilation, from the legislation of King David and other sources, of a code of laws for Scotland. It was suggested that the Regiam Majestatem might be the work of this commission, who found it easier to make out a complete system from the English book than to find one in Scotland. This theory was almost the reverse of compensation for the tradition of a purely national code which it displaced. There are critical reasons against it, too; and it is plain that the Regiam was put together by some unknown person soon after the War of Independence. The recollections of a long period of national popularity are

[1] Inst., iv. 345; clxxv. "of Scotland."

now all that belong to this celebrated code, unless we may grant that the readiness with which it was received at an early day as the exposition of the original laws of Scotland, concurs with other evidence to show that it was not until after the War of Independence that the laws and institutions of Scotland took a direction of their own, which separated them by material fundamental differences from those of England.[1]

[1] Everything critical and documentary for the study of the questions about the Regiam will be found in the first volume of the Scots Acts, edited by Professor Innes. There is some ingenious critical discussion, pointing to the very manuscript of Glanville which the Scottish compiler may have used, resting on the following explanation as to a manuscript containing very early versions of the vestiges of old Scots laws, which was given to this country by the Canton of Berne:—"The Berne Manuscript, which seems to have been in the hands of a person of consequence in the south of Scotland in the year 1306, contains a fine copy of Glanville's treatise, which in many of its readings varies slightly from the common manuscripts, and in some of these variations singularly coincides with the text of the Regiam." — Preface, p. 42. More effectual service is, however, done in this critical inquiry, and the whole question is in fact brought to a point by the printing of the parallel passages in the two works at length. The name of the Regiam Majestatem is taken from the words with which the collection begins, "Regiam majestatem non solum armis contra rebelles in regnumque insurgentes oportet esse decoratum, set etiam legibus," &c. In the same strain the Tractatus de Legibus et Consuetudinibus Regni Angliæ begins, "Regiam potestatem non solum armis contra rebelles et gentes sibi regnoque insurgentes, oportet esse decoratum, sed et legibus," &c. It may seem odd, that since the copyist changed the arrangement of the parts, as if to obviate recognition, he should have thus left so palpable a mark of plagiarism on the very face of his handiwork. But in fact this rhetorical flourish was the original property of neither of them. It is in each case an inflation of the celebrated exordium of Justinian's Institute, anticipating the sentiment, that "Peace hath her victories not less renowned than war" (Imperatoriam majestatem non solum armis decoratam, &c.) After supporting the echo of the proemium in a creditable parody to its end, Glanville and the Justinian Institute suddenly part company. Thenceforward they exemplify effectually the absolute contrast of the systems of the civilians and the English common lawyers. The Institute, as conveying the spirit of the Roman law, professes to examine the whole field which that law, as the law of the civilised world, occupies,

While there can be no doubt that the bulk of the Regiam is a mere adaptation of the English treatise, there are some other morsels incorporated in it which, by careful criticism, have been identified with laws that had existence, it is impossible to say how long, in local usage. There are external traces of such consuetudinary laws limited to districts where they may have grown before the King of the Scots had any concern with them. He obliged himself to respect the special customs of the Lothians—probably more thoroughly Anglo-Saxon in their character than any of the other provincial codes. The special laws of Galloway long remained as exceptional privileges.[1] There was a condition that a native of that country, taking the benefit of the ordinary laws of the realm, was not also to plead his special privileges as a Galwegian. Among the fragments of the laws of King David is one enjoining

and to divide and subdivide its matter by strict analysis. The English Chief Justice gets at once into practice; he goes over the various forms of procedure for the enforcement of the common law as if he were the officer who had to give effect to the decisions of the courts; and if he explains the matter of the law itself, it is by way of note on the machinery for putting it in execution. To carry out its philosophical division, the Institute is divided into four books: the first treating of persons in their relation to the law; the second of things as they may become the objects of legal conditions; the third of the mixed relations of persons and things through successive contracts and the like; and the fourth treating of legal remedies for the enforcement of rights by effective process. Glanville's treatise, which in reality is restricted to this last division, professes no arrangement, but is distributed over thirteen books, according to a division little more than arbitrary and for convenience of length. It is curious, however, to observe that the compiler of the Scottish Regiam divides the matter into four books; and although he does not aim at any philosophically exhaustive division, it may be inferred that he was acquainted with the Institute, and adopted its four books as a canonical division for any code of laws.

[1] "Galwydia quæ leges suos habet speciales."—St. Regis Alex. II., xiv., anno 1244.

that when the brethren of Melrose are on the track of the discovery of robbery, then the lord of the soil shall help rather than hinder them. The possessions of the rich abbey had no doubt many temptations, and especially to men peculiarly inaccessible to the usual administrators of the law.[1]

In some of the oldest records of actually adopted laws—those of King David's reign, for instance—there are references to previous laws or institutions, which are spoken of as if they were venerable customs known to every one. When a man is challenged for theft, and can find no one to be "broch" or bail for him, he is to be taken into custody, to be dealt with according to law and custom.[2] In another law, putting a poor and helpless person who is pillaged under the special protection of the sovereign, the sufferer is to make oath of the injuries done to him on the holy altar, as the practice is in Scotland.[3]

In the Regiam there are some fragments of a mysterious old code, called the Laws of the Brets and Scots. In the ordinance of King Edward already referred to these are denounced; and it is one of the reasons, and a sufficiently conclusive one alone, for holding his commission not to be the authors of the Regiam that these denounced laws make their appearance there. In Edward's ordinance the laws of King David, and the amendments of later kings, are to be the foundation of the new code, whence it is to be inferred that these

[1] Legum Dav. I. Vestigia (A. P.), 81.

[2] "Qualis lex et consuetudo est de homine sine plagio."—Ass. Reg. Dav., xvii.

[3] "Super sanctum altare, eo modo quo mos est in Scotia."—Ibid., xxx. In other sentences it is "contra assisam regni," "secundum assisam terræ," &c.—See Pref. to Statutes, vol. i. p. 30.

were in harmony with the English laws, as indeed we otherwise know that they were; but the customs of the Brets and Scots were specially excluded from the materials out of which the new code was to be digested.

A denunciatory criticism of so practical a kind naturally excites our curiosity about the tenor of these venerable customs. If what we possess of the "Leges inter Brettos et Scotos" be all that ever existed, that code must have had a limited range. The only thing dealt with is the pecuniary retribution for slaughter or personal injury. We have first the "kro," "cro," or "croo" of each class in the social grade. The kro appears to be an estimate of the absolute value of the person; the fixing of his rank in the pecuniary scale, to the effect that the damage to be paid for any injury inflicted on a person in any one of the grades, shall bear the same proportion to the damage for the same injury inflicted on a person of any other grade which the cro or total value of the one bears to that of the other. From this valuation table the king is not exempt. His value is estimated at a thousand cows, or three thousand golden "oras," translated shillings, bearing the inference that a cow was then worth three of these. The cro of a king's son, or of a Comes Scotiæ, Yarl, Maarmor, or by whatever other vernacular name known, was seven times twenty cows and ten—the method of expressing the round number of a hundred and fifty. The cro of the son of a Comes, or of a Thanus, was a hundred cows. From this we see that the thane was inferior to the comes. Besides the son and nephew of a thane, we have the Ogtiern, supposed to express the rank held by the fourth in

descent from a thane.[1] This value, specially expressed in a mixed medium, is forty-four cows, with twenty-one denarii, and two parts of a denarius.

The code proceeds to a few details, not easily to be rendered with satisfactory distinctness, for adjusting the proportions of the cro to be paid for certain injuries. That general characteristic of the document which made it offensive to Norman taste is that, according to a practice very prevalent in the old laws of the north, it deals with crimes of violence only as affairs for pecuniary settlement. No doubt a code, providing no other remedy against crime, would be considered very barbarous at the present day. In Scotland it continued as a feature of the law when other remedies were available; but we would require to know the social conditions to which it was applied before absolutely condemning it, even when standing alone as the only remedy provided by the law. Violent retaliation was, perhaps, only too certain to arise without aid from the state, and there might be a rough element of civilisation in turning the responsibilities of the offender into another and less exciting channel.[2] There was no phi-

[1] Robertson's Scotland under the Early Kings, i. 240; ii. 261.

[2] One of the fragments of old Scots laws preserves a sort of exposition of the philosophy of the system as an improvement on the natural law of retaliation, which it titles rather perversely as "God's law," probably because it is referred to as a tradition in the Sermon on the Mount. The following passage is from an old Scots translation, though not nearly so old as the law in its primitive shape:—"All laws outhir ar manis law or Goddis law. Be the law of Gode a heid for a heid, a hand for a hand, an e for an e, a fut for a fut. Be the law of man for the lyf of a man ix^{xx} ky. For a fut a merk, for a hand als mekill, for an e half a merk, for ane er als mekil, for a tuth xii peniis, for ilk inch of lynth of the wound xii peniis, for ilk inch of bred of the wound xii peniis," and so forth.—Fragmenta veterum Legum. Acts, i. 375.

These old laws are all in Latin, but of a considerable portion of them there is a version in the Scots vernacular. This being quaint and old

losophical system of prison discipline to fall back upon; and perhaps it was as good a way as any then available for keeping alive a sense of the folly of violence, that it diminished the offender's herds, or established a permanent debt against him. Barbarous as the Normans thought this pecuniary adjustment, it has come down to our own days, and lives vigorously in our practice. There was ever in Scotland the law of assysthement, which counted that the slayer, if he might sometimes be a criminal, was always a debtor; and the adjustment of the debt to the value of the life taken has been applied with new niceties and variations in the charges to juries on questions of damage for railway accidents.

appears the more venerable of the two, because Latin is the language of all periods. In reality, however, the Scots versions are translations of different and not accurately ascertained dates, but generally of the fifteenth century. We have none of these laws in any language in which the people of their day could have understood them. It happens, however, that there are dispersed among them old technical words which the scribes who put the text into Latin did not translate, not perhaps knowing their meaning, but incorporated, with Latin inflections. These in the Latin have a piebald appearance like macaronics, but when transmuted into the vernacular translation they appear as if in their right place, and contribute to the venerable aspect of the old laws. For instance, we have a "stalingiator," a stall or booth-keeper, who "nullo tempore potest habere loth cut neque cavyl de aliquo mercimonio," &c.; and this supplies the technicalities which come aptly into the vernacular version. "Gif a stallangear aw ony dett til a burges, it sall be leyfull to the burges to tak his pund of his gudis quhar that evir he fyndis hym wythin the burgh. And it is to wyt that na stallangear may hafe na tym loth cut or cavyll wyth a burges of ony maner of merchandise, but in the tym of the fayris quhen that ilk man may hafe lot and cavyll wythin the kyngis burgh." —Leg. Burg., liv.

Another ordinance begins, "Si quis verberando fecerit aliquem blaa et blodi ipse qui fuerit blaa et blodi prius debet," &c. It deals with assaults which make blue and bloody, and is in the vernacular, "Gif ony man strykis anothir quharthruch he is mayd blaa and blody, he that is mayd blaa and blody sal fyrst be herde quethir he cumys fyrst to plenze or nocht. And gif that bathe be blaa and blodi, he that first plenzeis hym sal first be herde."—Leg. Burg., lxxxii.

There are other vestiges of early laws, of which the most important is the Code of the Burgher Corporations, to be dealt with further on.[1] In these we may find further rough attempts to accomplish fairness and justice, assuming shapes which, however uncouth or unadapted to philosophical principles of jurisprudence, have never, in Britain at least, been utterly discarded in more enlightened ages, but have been modified to the exigencies of social changes. It would be difficult to find anything that can be paralleled to trial by jury, where a learned judge finds the law, and a body of ordinary citizens find the fact. But we see its unshapen germs in the prevalence of Compurgation. The accused is "assoiled" or cleansed if his neighbours stand by him and hold him to be innocent. There is great practical influence given to the broch, pledge, or bail, by which one citizen becomes responsible for another. Throughout there is scope given to the neighbourly spirit—the influence which the opinion of a man's fellows is to have upon his destiny, so that it shall not be entirely at the mercy of some great lord or royal officer, as in a purely despotic country.

In the laws specially attributed to King David, the purgation comes nearer the shape of a jury. In the very

[1] That there were others to which we have no longer access is shown by the inventories of writs removed by King Edward. "In these are preserved the titles and general description of a vast number of rolls, in which there must have been entries of all sorts of parliamentary matter, of public transactions, of judicial proceedings, and, above all, of legislative acts and ordinances. Among the records removed from Edinburgh by the orders of Edward I., and afterwards restored in part to John Baliol, but of the subsequent fate of which we are ignorant, there were, *Unus Rotulus de antiquis Statutis Regni Scocie; Unus Rotulus de Statutis Regis Malcolmi et Regis David;* and *Duo Rotuli de Legibus et Assisis Regni Scocie et de Legibus et Consuetudinibus Burgorum Scocie et de quibusdam Statutis editis per Reges Scocie.*"—Act Parl., i., Pref. 14, 15.

serious case in which the king pursues a man on a charge of felony, or for forfeiture of life or limb, he is protected or acquitted by the oath of twenty-four leal men abiding within the sheriffdom.[1]

If one charges another with reft or theft, and the accused asserts that the accuser did not possess the wherewithal which he maintains to have been taken from him, he may go to the country or the neighbours on that fact, and if the decision be in his favour he is acquitted.[2] So also if one is claiming damage for the slaughter of a relation, or the burning of his house, the other may get the judgment of the faithful men of the court on the question whether the amount claimed is not excessive.[3] A little later, in a statute of Alexander II., a person accused of theft or robbery may throw himself on the judgment of the neighbours.[4] In one of David's laws, four lines long, there is an alternative given to one accused of theft: he may offer battle, or throw himself on the purgation of twelve faithful men.[5] No one will stand up for the former of these alternatives as a rational law worthy of living into our own times, though Wager of Battle was once actually demanded in England within the present century as a protection against the oppressiveness of the criminal law; and the proposal was backed by scholarly and sincere reasoners maintaining that, while the oppressive right called Appeal in Murder remained in the law, the old

[1] Assisa Regis Davidis, xi.: "De felonia vel de vita et membro." The conjunction is not logically expressed. The acquittal is, "Per sacramentum viginti quatuor hominum legalium."

[2] Ibid., vi.: "Proportatio patriæ vel visneti."

[3] Ibid., vii.: "Per viros fidedignos curia."

[4] Statuta Alexander II., vi.: "Proportatio visneti."

[5] Assisa Davidis II.: "Utrum velit duellum vel purgacionem duodecim fidelium hominum."

ordeal of Battle should remain too as a mitigation of its influence.[1] It frequently comes up in these fragments of old laws; and all that can be said for it is, that it is grasped at along with other rough remedies as if to throw the life and liberty of the citizen on any available alternative rather than the absolute power of a ruler. In their dealings with this peculiar legal remedy, the old laws make no allusion to any special intervention from on high giving supernatural strength to the weak arm advocating a just cause. There is nothing in sight of the lawgiver, so far as he expresses himself, but a fair stand-up fight and victory to the stronger. Simple as such a method of settlement might seem, however, there were difficulties in its adaptation to the condition of society in the thirteenth century. It was a rule, but of comparatively late adoption, that churchmen must for decorum's sake be exempt from fighting, whatever their ability; and widows who cannot fight must be protected in their rights. Hence there is a complicated arrangement for an assize out of three baronies.[2] It seems to have been found, too, that a miscellaneous fighting throughout all ranks would not in the end tend to the orderly administration of justice. The law had to discover more civilised methods of judicial remedy before it could put them equally into the hands of all classes to be used by them against each other. If the keorl or churl arraigned of theft by a person of higher rank was entitled to fight out the affair, there would of necessity be a good deal of confusion favourable to the strong-handed thief. The thief's lord might fight the accuser of his own

[1] See 'An Argument for construing largely the right of an Appellee of Murder to insist on Trial by Battle,' by E. A. Kendall.

[2] Stat. Al. II., v.

rank if he would—a privilege not likely perhaps to be abused—but the man of humble birth could only challenge his fellow. To remove some inconveniences caused by these restraints, there was a remedy which enabled the man of higher rank to fight by deputy.[1] This does not carry commendation on its face, yet it worked itself afterwards into an established organisation of the English administration of justice. The peaceful spirit of municipal life begins to show itself at this early period in the restraints on the ordeal of combat in the burghal code. To prohibit it altogether would have been too radical a measure, and might indeed have compromised the rank taken by the burgesses. It does not appear that the burgesses dwelling within any town were restrained from the combat with each other. If a rusticus, having a right of burgage within a town but not dwelling there, challenged a resident burgess, the burgess was not bound to fight; but if he in his turn were the challenger, the non-resident burgess required to accept the combat. When an upland man not connected with the burgh challenged a burgess, the burgess was not bound to fight, unless it were either on a plea of treason or a question of "theme" or thraldom. Any way the burgess must not fight with the upland man save outside the burgh.[2] In the laws of the guild brotherhood of the great city of Berwick there are careful regulations for the suppression of strife. A blow with the hand was punished with the fine of half a mark. Where blood was drawn

[1] Stat. Alex. II., viii.

[2] Leges Burg., xi. and xii.—In the vernacular translation: "The burges may nocht fecht upon na man that wonnys on the lande bit he ga first ututh the burgh."

the established fine was twenty solidi, and such damages as the brethren might award to the wounded man. It was made penal to carry a pointed knife within the bounds of the guild.[1] Another spirit influenced the laws of the borders by which the brethren would have to settle with their neighbours of England. No testimony of witnesses was available to an Englishman in Scotland, and if his claim was disputed it could only be tried by the body of man.[2]

Scattered throughout these rough old laws are occasional uncouth touches of compassion or fair play. The gallows we find in use; but in the very beginning of a set of laws attributed to King David is one which shows that the hangmen of the age were not expert. If the thief brought to the gallows escape with his life the first suspension, it is not to be repeated, and he shall thenceforth be quits with the law, and not liable to punishment for his past offence, while those who so blundered his hanging are liable to a heavy fine.[3] This is in the true Anglo-Saxon spirit, which, down even to this day, loves to give the criminal "law" as well as the hunted fox, encouraging any legal difficulty that may enable him to distance his pursuers. Where criminals were caught in the act — the thief "back-bearand;" or carrying his plunder on his back, the murderer "red-hand"—summary justice was administered; everything was then clear, and there was no occasion for those vexing and perplexing arrangements about compurgators, or the vote of the neighbourhood, which made the clumsy protection of the innocent.

[1] Statuta Gildæ, 7 and 8.
[2] "Per corpus hominis."—Consuetudines Marchiarum.
[3] Assisæ Regis Davidis I.

The animals at the present day peculiar to the farm were the staple element of movable wealth in these early days, as we have seen by their use as a measure of value in retribution for offences. Among the laws attributed to the reign of William the Lion is a very characteristic division of the crime of stealing such stock into a higher and a lower grade. When the prey requires to be driven, it is of the higher; when it can be carried off, the lower offence is committed. In the vernacular translation the law is called "Byrthen-sack," in reference to what one may carry as a burden; and declares that no man should be hanged save for what is equivalent to the value of two sheep, each worth sixteen pence. If one is arraigned for the theft of a calf or a ram, or as much as he may carry on his back, let him be tried at the court of the lord of the land, where he ought to be beaten or have his ear cut off in the presence of two leal men.[1] Many years have

[1] Assisæ Regis Willelmi, xiii: "Debet verberari vel auriculam abscindi." In the vernacular it is: "The theyff aw to be weil dungyn or his er to be schorn. And that to be done there sall be gottyn two lele men. Na man aw to be hingyt for les price than for twa scheip of the quhilkis ilk ane is worth xvid." At a later time comes a more detailed legislative measure for dealing with the being who is still the great difficulty with all penal legislators—the incorrigible thief. Probably the man who drew the following Act believed that he had solved the difficulty: "Giff ony be tane with the laff (loaf) of a halpenny in burgh he aw throu the toun to be dungyn. And for a halpenny worth to iiii penys he aw to be mar fayrly dungyn. And for a pair of schon of iiii penys he aw to be put on the cuk stull and efter that led to the hed of the toune and thar he sall forsuer the toune. And fra iiii penys till viii penys and a ferding he sall be put upon the cuk stull and efter that led to the hed of the toune, and ther he at tuk hym aw to cut his eyr of. And fra viii penys and a ferding to xvi penys and a obolus he sal be set apone the cuk stull and efter that led to the hed of the toune, and ther he at tuk hym aw to cut his uther eyr of. And efter that, gif he be tane with viii penys and a ferding he that takis hym sall hing hym."—Fragmenta Vetusta, ii. t. 364.

not passed since English lawyers might have found in this a rebuke on the statute which made it death to steal five shillings' worth in a dwelling-house.

The distinction established in the old Scots law explains itself at once; it separates the masterful riever, who enters upon the land with a force and drives before him the cattle or sheep, from the paltry thief who takes what he can carry off. There is a converse to this, in laws for the special protection of the poor from such masterful depredators; and this also is characteristic of the spirit of kindliness and fairness that, however clumsily it be adjusted, is found here and there in the remnants of our old laws. Thus there is one among the laws of David's reign giving a special remedy to poor people and friendless, who complain that anything is stolen from them or reft by the strong hand. The authors of such laws have a notoriety for good intentions ill effected, since the original poverty and feebleness which they are designed to protect will ever be in the suitor's way, let the remedy be as simple as it may. Perhaps the remedy in David's law was as good a one as could be devised. If the poor man oppressed had a respectable witness to swear to the truth of his charge, his plea became the king's plea, with all the prerogative privileges attaching to a royal suit; and it might stimulate the proper officer to its prosecution, that the rich man who was proved to have committed masterful rief on the poor and friendless under the royal protection, had to forfeit to the king eight cows, in addition to the restoration of the poor man's goods.[1] We have here the germ of the functions of a

[1] Assisa Regis Davidis, xxx.: "Si concedendo veraciter confirmaverit quod ab eis sine lege et judicio per vim aliquid abstulit reddat quod

public or crown prosecutor in his protective capacity, and before his office was formed on the model of the despotic institutions of France.

We shall perhaps best appreciate the new spirit of humanity and personal freedom which dawns through these primitive laws, by looking for their equivalents in that great fountain of jurisprudence on which all civilised nations have drawn—the books of the Roman law. These are the perfection of human workmanship for the accomplishment of their ends. So comprehensive was the survey of these jurists of the Empire, so acutely and ingeniously did they fill in all the details of their vast system, that they seemed to have predicted and provided for every case of dispute between man and man; and the communities of the modern world, when practical difficulties arose from time to time, could always find their solution somewhere in the Justinian collection, and were content with what they found. But the student of social science will look in vain in that mighty system for any light on the principles of punishment and reformation—for almost any effective hint on penal law; those branches of jurisprudence which have tried the powers of the hardest workers and deepest thinkers of modern days. The Romans did not require to extend their sagacity and subtlety to these matters. All the inextricable difficulties of dealing with degradation and misery were cast into the great institution of Slavery. The people of the degraded and dangerous

abstulit, et regi octo vacca spro transgressione emendet." The preamble in the vernacular version is expressive: "It is ordanyt at al thai, the quhilkis ar destitut of the help of al men, quhar so ivir thai be wythin the kynrik, or besily aw to be, sal be undir the protecciouu of the lord the kyng."

classes were made articles of property, and the state had no further concern with them, save to adjust the principle of their ownership, and the responsibility of each owner towards his neighbours for the acts of his slaves.

The people of condition in early Scotland had their thieus, thralls, or serfs too; but it may be said that, while the institutions of the Empire ever tended to the strengthening and enlarging of the organisation of slavery, the tendency in Scotland was towards the absorption of the bondsman into the free community. From the beginning, the laws giving a title to possession of the serf are indistinct, and they seem never to have approached the perfection of the best slavery laws in converting the human being into a chattel without privileges. The nomenclature applicable to the class is indistinct; Thieus, Thralls, Bondmen, Serfs, Natives, Rustics, and Ceorls being employed without a meaning always distinctly separable. Some of these classes could not act as compurgators or jurymen, but they could not be condemned without some trial by the country. The question whether a person was a bondsman or not was one of the high pleas that must proceed on a brief from the crown. The lord was the protector of the serf as well as his master, and was bound to this obligation in a practical form, which fits curiously into the system of pledges and neighbourly support pervading these old laws. If a serf were accused of an offence, and his lord refused to be his broch —that is, to be bail for his appearance—then, if he were acquitted of the charge, he was no longer bound to his lord, but became a free man.

The most significant, as it must have been the most

efficient, of the emancipation laws was common to England and Scotland—that if a bondsman continued a year and day within a free burgh or municipality no lord could reclaim him. In Scotland the same appears to have been the effect of living for seven years peaceably on any man's land—acquiring what would be called an industrial settlement.[1] Such a rule was likely to play into another in the laws of Alexander II., which gave redress in the king's court, by the justiciar or the sheriff, to any man whose lord arbitrarily deprived him of his holding. His possession of the holding could be proved by the true men of the country.[2]

In later times, an inquest or jury sitting on such a question would look to written titles. In Alexander's time, unless in important cases of formal feudal investiture and performance of homage, there would be nothing to establish the peasant's holding, save the testimony of neighbours that the family of the ejected peasant had ever as far as was known been possessed of the holding, or, perhaps, the recollection to that effect of the true men themselves. We may here see one out of apparently a number of shapes in which the thrall, bondsman, or serf, not being one of a caste condemned to slavery, might by degrees found a heritage of freedom for his race. Through the favour of accidents which have relieved him from strict vigilance, he has lived seven years on the estate of a man who

[1] These specialties stand chiefly on the Regiam Majestatem (ii. 8 and 9), but they are portions of it not transcribed from Glanville, and appear to repeat old customs. The rule giving a dweller in a town for a year and day his freedom is in Glanville, and it is specifically provided for in the Scots burgh laws.

[2] "Per probos homines patriæ."

has perhaps found him useful. He and his family there abide for a generation or two; and then, if the lord of the soil desire to eject his descendant, it is found that the family have an established right to their holding.

The general tenor of what we know about the institutions of the country is, that they were in spirit the same as the English. Being so, they could not help partaking of the feudal institutions brought in by the Normans—but they had less of these than England had. The leaning in Scotland was more towards the Anglo-Saxon portions of what England had than towards the Norman. We have seen that the Normans had not planted their castles in Scotland, and they did not plant their language. In Scots documents before the great war Norman-French may be found, but only when it is used in courtesy in addressing the King of England or some foreign potentate.

The early records of Scotland furnish nothing resembling Magna Charta and the Charters of the Forests. These are, no doubt, noble testimonies to a stand against prerogative and arbitrary power. They were made after a long period of oppression by the Norman king and the Norman barons, when the original conditions of the conquered land had so changed that the barons and the people found a common cause. Of these bonds of protection, however, it must ever be remembered that they were a restoration of that which had been taken away. Every act of consent was given with a grudge: it was extracted, sometimes by force, from an unwilling monarch, who was sure to break his word whenever he could, so that the public safety required a continued renewal of the charters. In Scot-

land the mischief that had thus to be undone had never been perpetrated. Each country had to contend with the Norman as an enemy: in England, however, he had got into the abode, while Scotland kept him beyond the gate.

Perhaps from the very peril in which it was achieved, the English constitution drew its firmness and precision. Every point had to be fought for, and it was precisely known how much had been gained and how much lost. In Scotland there was much vagueness. It would be difficult to point to definite prerogatives or definite privileges. This source of dubiety was fostered by a propensity to employ English forms and usages. We have seen how the English collections of laws were imported in full bulk to Scotland. When an English king issued certain writs, the Scots king's Clerk in Chancery would imitate them for his master's use. We have thus, for instance, Grants of Forestry, as if the Scots kings possessed the prerogative restricted in England by the Forest Charters. These Grants professed to impart to the king's foresters such prerogatives and powers of exclusion and restriction as the English monarchs maintained; but it is observable that they did not even in words pretend to mete out the terrible punishments falling to the lot of the slayer of the king's deer in England, and that they dealt only with pecuniary mulcts. In the seventeenth century, when the crown lawyers made a diligent search for every scrap of parchment which could justify arbitrary prerogative rights in the crown, a code of forest laws declared to be of great antiquity was produced. It was found, however, on examination, to be a compilation of recent times—times coming down to the period of par-

liamentary action, when every law required the sanction of the Estates. It was, in fact, after the manner of other received national codes, a mere compilation from the English forest laws.[1] Of the influence and action of any real forest law existing in Scotland we have thus scarcely a trace. One who had read a greater heap of existing writings about Scotland than any other man of his day, hence said: "The kings were the great hunters, in imitation of the Norman monarchs of England; and they had in every shire a vast forest with a castle for the enjoyment of their favourite sports. The king had for every forest a forester, whose duty it was to take care of the game, though we hear little of the severity of the forest laws in Scotland."[2]

Hence there is a very picturesque chapter in British history in which Scotland holds no part—the story of the outlaw Robin Hood and his merry independent band, who held their own in the free forest, defying the mail-clad tyrant in his castle. Every one is familiar with the fine Saxon spirit thrown into this group. They have little respect for the great feudal lord, his laws, and his property; they will take his life upon occasion, and are in the eyes of his law the greatest of criminals, yet are they full of courtesy, loyalty, and kindliness; they scour the forest at their will, and feast on the deer; they delight to rob its lord and subject him to all contumelies, yet a priest or a forlorn wandering maiden is safe among them. The slain deer are distributed to all who need, and the fruit of robbery is given to the poor. In the mere creature of popular legends we are not likely to find a parallel

[1] See Leges Forestarum, Scots Acts, i. 323.
[2] Chalmers's Caledonia, i. 765.

with the history of a great military leader and statesman, yet it is interesting to observe how like the Robin Hood of the English is to the legendary Wallace of Scotland. They are especially alike in each marking local peculiarities by his popular name. England is covered with such recollections of her outlaw—Robin Hood's Bay, Robin Hood's Chair, Robin Hood's Bed, Robin Hood's Wells, Robin Hood's Leap; and the like, all putting a mark on peculiarities in local scenery. It is the same with Wallace in Scotland; and in both the commemorations it is easy to see that this tenacity of popularity is founded on traditions which had their origin in great wrongs and deadly hatreds.

Recurring to the faint vestiges of anything in Scotland resembling the English forest laws, it deserves mention that in late years a great territorial lord, endowed with something of the Norman spirit of monopoly in sport, did some service by trying how far prerogative forest laws, if they ever existed in Scotland, could be put in force. Whatever they were, they had not been checked, as in England, by guarantees like the Charters of the Forest; such as they were, they were unrepealed. He maintained that he was bound to plead the prerogatives of the crown, since the land he held was a royal forest, committed in a manner to his care, so as to throw on him a special responsibility for the protection of its immunities. He maintained two prerogatives: one was the right to close all communication through the forest between two districts of country; the other was a right to enter on the lands of neighbouring proprietors and reclaim from them the deer which had strayed from the royal forest. The courts of law found that there was no distinct law to support such claims

—virtually they found that there was no old Scots forest law, and no restraints on personal freedom and the free use of property otherwise than by statute. It is significant that the chief support sought for the prerogative side in these litigations, was something said by Lord Stair, a lawyer trained in the high prerogative school of Charles II.'s reign.[1]

[1] Athole *v.* Macinroy, 28th Feb. 1862, reported in the case books. Among the views given out from the Bench were:—"Lord Braxfield, a great feudal lawyer, observed: 'In Scotland wild beasts being *ferœ naturæ* were not the property of the crown;' and in the well-known case of the Earl of Aboyne against Innes, the elder Lord Meadowbank denounces the English notion that the right of game is in the crown, as 'a mere subtlety of the Norman lawyers' which has no solid foundation.

"In support of his plea, the pursuer refers to a passage in Stair (ii. 2. 68) where it is said, 'The hunting or killing of deer seems to be *inter regalia* with us, except those who have them within proper enclosures; for otherwise, the king's forest having no enclosure, the deer by straying abroad would easily be destroyed,' &c. No authority is given by Lord Stair for the opinion here expressed; and so far as the Lord Ordinary can discover, it has not been adopted or recognised either in the judgments of the courts or by our most approved institutional writers."—Note by the Lord Ordinary.

The Lord Justice-Clerk remarked on the same passage:—"Indeed, were it not for a somewhat remarkable passage in Lord Stair, it may well be doubted whether the present claim would ever have been made."

CHAPTER XVII.

Progress of the Nation to the War of Independence.

(Continued.)

THE GERMS OF PARLIAMENT—ITS RELATION TO THE OLDEST LAWS—THE ASSEMBLAGES OF NATIONAL COUNCILS—THEIR CONSENT TO GREAT NATIONAL ACTS—RISE OF THE BURGHAL CORPORATIONS—DIFFERENT GRADES OF CORPORATIONS—POWER AND WEALTH OF THE CORPORATIONS—THEY FORM A SEPARATE PARLIAMENT OR COUNCIL—INTERIOR ECONOMY OF THE BURGHS—INFLUENCE ON PROGRESS OF FREEDOM—RELATIONS WITH FOREIGN MUNICIPALITIES—THE BURGH FRANCHISE—THE EXCLUSIVE PRIVILEGES—GREATNESS OF BERWICK—TOWN DWELLINGS—RURAL DWELLINGS—DWELLINGS OF THE NOBILITY COMPARED WITH THE ECCLESIASTICAL BUILDINGS—NO NORMAN CASTLES—MAGNIFICENCE OF THE REMAINS OF NORMAN CHURCHES—TESTIMONIES TO THE WEALTH OF THE COUNTRY BEFORE THE BREAKING OUT OF THE WAR—COMMERCE, AGRICULTURE, AND RURAL ECONOMY.

It may seem illogical to speak of the laws themselves first, and of law-makers afterwards, but the bulk of the old collections of laws are of uncertain origin; and at the period we have reached we have no distinct hold of a legislative body, unless it may be that which, as we shall presently see, acted for the burghal communities. In the very early times we have nothing even so substantial as the unsatisfactory Witenagemot

of the Anglo-Saxons to be the parent of the subsequent Parliament. As to the collections of laws referred to in the preceding pages, with the exception of the small additions made to them by King David and his successors, we do not know whether any of them were established by competent legislative authority, or the whole grew out of local usage. The small contribution made in the name of each of these kings is generally called an "assize," or sitting. The word Parliament had not come into general use. No assembly had as yet called itself a Parliament on its record, yet the term must have been in colloquial use, since, as we have seen, it was stipulated in the Treaty of Brigham in 1289 that no Parliament should be held out of Scotland to treat of Scots affairs. The earliest Parliament—so calling itself on the record—is that of 1292, held by John Baliol at Scone, of which we shall presently have to speak. The Assizes are generally in the name of the king. There is very little absolute law in them, and they may be said chiefly to consist of good advice and regulations for the preservation of order, civility, and good morals, which there was no punishment, penalty, or other sanction for enforcing.[1]

[1] Thus there is a precept of mutual forbearance and hospitality in the matters of persons going to the king's court, or throughout the country on their own lawful business. They are not to go in bands formidably large, and are not to waste or rieve upon the lands they pass through; but are to solicit harbourage from the lord of the soil, and contentedly take what he gives them. As the vernacular translation has it: "Alsua in thar way the house of quhatsumevir lord thai cum to at evyn tyd til hym thai sal pray for herbery, and eftirwart quhen thai haf gottyn grant of the samyn efter the maner of the contre, thai sal enter in the housis, and fra thaim be the whilkis thai ar herberyt, nouthir met no othyr thyng thruch violence thai sal tak," and so on (27). By another of David's laws it is commanded, or rather recommended, that the owners of land

These scraps of legislation are in some instances sanctioned by the magnates of the kingdom, and even by the community at large, but generally they are in the name of the king alone. It does not follow that they were drawn by himself, or that he ventured to issue them unbacked by the countenance of his advisers. It has been all along the constitutional practice in Britain to issue legislative proceedings in the name of the sovereign, and the Acts of Parliament of the present day are by title the doing of the sovereign by advice and consent. Of these old Acts we only possess copies in which preambles and other formal matters are not repeated. There are other regal acts of David and his successors, of which we have not merely casual copies but the actual record, and that because they were not merely general laws or precepts addressed to the country at large, but were documents imparting important rights to persons of consequence or to communities, and they were consequently preserved like title-deeds with all their formalities and appendages. In these, when they contain matter of far less importance than the most inconsiderable of the assizes, we invariably find some body of men concurring, whether as the councillors who have taken the

pasture their cattle upon their own fields, and not on those of their neighbours, as it seems had been the custom—"hiddertil thai war wont to do" (ibid., 26), says the vernacular translation: in a country where property in land is distinctly marked off by law, the law would require no such supplementary provision. There is one very curious little provision in these laws. If one slays another man's watch-dog (*wache hund* in the vernacular version), the slayer must himself protect for a year and day the unwatched homestead (fimarium, translated mydden), and is responsible to the owner for any scathe that may befall within that period after the slaying of the dog. It is among the same set of quaint neighbourly regulations that the law against hanging a man for stealing as much of the flock or herd as he can carry away is found (p. 148).

responsibility of recommending or countenancing the step taken, or as persons whose assent was necessary to render the royal act effective.

The growth of the feudal Parliament in Scotland follows exactly, though lagging a considerable way behind, its growth in England. The king acts with "concilium" or council, a word which has led to deep misunderstandings, since it has been supposed to refer to a *council*, or established body of responsible advisers, whereas it really means the counsel or advice given him by those he consulted. It is one of the natural consequences of this confusion of meaning that an assembling together is a necessity of the one, but not of the other, since the advice of the several councillors may have been taken separately. The advisers are at first few in number, but they extend and become articulated into the Estates of Parliament, a progress towards which much assistance was given by the necessities of kings, and their applications for money beyond the amount of the feudal taxes and casualties which they were entitled to take without any vote of consent.

The critical position of the country at the point which we have reached seems to have rapidly widened the attendance of the notables, or dignified clergy and great landholders. Those assembled in 1283 at Scone, to acknowledge the Maiden of Norway as the heir to the throne, consisted of thirteen earls and twenty-four barons or knights. There were no churchmen present, nor did the Act in which the assembly embodied its resolution pass in the name of the king. The whole proceeding seems to have been of a purely feudal character—those who held the great fiefs of the crown declaring whom it was that they were to acknowledge

as their superior.[1] The convention at Brigham in 1289 about the marriage of the Princess with the Prince of England, consisted, besides the four guardians, of ten bishops, twelve earls, twenty-three abbots, eleven priors, and forty-eight barons. In the address which they sent to King Edward, their names were enumerated as if with a view to impress him with the number and influence of those who desired to further the projected union.[2]

But besides the roll of magnates, lay and clerical, who gave their counsel to the sovereign, the records reveal another element of authority in the country—an element mentioned fugitively and briefly, yet so distinctly that it can be seen to be of a popular character. Hence it has been naturally an object of much criticism and speculation, not always coming to any distinct satisfactory conclusion. The facts in themselves are soon told. For instance, take a statute of King Alexander II., bearing date in 1230, for restricting the privilege of knights and barons to borrow or become bail for persons accused of crimes, beyond the circle of their own followers. It was passed in the presence of two churchmen and five laymen, who are named, and of "many others." Then it is recorded that the king passed the measure with the advice and consent of those present, and of the whole community.[3]

Another Act, dated in 1244, professed to have been passed with the consent of certain magnates, whose names are given, and of many other earls, barons,

[1] Act. Parl., i., Pref. 7; Act Al. III., p. 82.

[2] Acta Margaritæ, p. 85.

[3] "Statuit Dominus Rex Alexander, apud Striveling per consilium et assensum eorundum magnatum et tocius communitatis suæ."—St. Alex. II., iv.

and other the king's worthy men of Scotland.[1] Still broader, and, it must be admitted, vaguer, is the tenor of certain charters to the first great religious houses established in Scotland on the Catholic revival, inaugurated by St Margaret. In the foundation of the Abbey of Dunfermline, of the Abbey of Holyrood, and perhaps in other instances, the king acts on his royal authority and power, with the consent and attestation of the bishops, earls, and barons of his realm, and the acquiescence of the clergy and people.[2]

No collateral light is found to aid us in reading these curious intimations. They stand by themselves, an acknowledgment—sincere or not—of the admission of popular influence in the actions of the government. More than one attempt has been made to show that the popular element was no other than the representation of the municipal corporations in Parliament.[3]

In fact, however, the municipal corporations had a political position of their own, too distinct and important to let us suppose that it could be referred to in these vague acknowledgments. Apart apparently

[1] "Et aliorum comitum baronum et proborum hominum suorum Scocie."—St. Alex. II., xiv.

[2] If we must not take the charter of Malcolm III., about coeval with the Conquest, as genuine, we have the terms repeated in the later confirmations: "In nomine sancti Trinitatis, ego Alexapder, Dei gratia Rex Scotiæ, auctoritate regia ac potestate, episcoporum, comitum, baronumque regni mei consensu atque testimonio, clero etiam adquiescente et populo."—Act Alex. II., Apx. 76*. See also the Introduction to the Register of Dunfermline, edited for the Bannatyne Club. The "Clero etiam adquiescente et populo" will be found in the charter of erection of Holyrood by King David, before the year 1150, in Acta Regis Davidis, 46*.

[3] In 'Observations concerning the Public Law and the Constitutional History of Scotland,' by Gilbert Stuart, this view is set forth with that resounding march of rolling sentences of which he was a special master.

from the landed aristocracy and the Church, they were consolidating a power of their own, which enabled them to form a leading element in the more elaborately constructed parliaments of later times.

Before parting company with Roman dominion in Scotland, something had to be said about those eminent departments of the Empire—the Municipalities. Some of these, near the centre of Roman government, can trace back their municipal existence to the days of the Republic, and of many others it may be said that as early an origin is likely enough, though it cannot be shown. We have nothing to prove that in Scotland any of the institutions of the Romans outlived the confusions following on their departure. It is certain, however, that whenever the greater portion of the provinces north of the Tweed became consolidated into a state, municipalities on the Roman model grew rapidly within it. The form of this kind of organisation had been so perfected that it could be extended from place to place with entire ease, and adapted itself at once to the organisation and government of any considerable body of men collected on one spot. We are not to suppose that those who propagated the system were deeply read in the books of the Roman law. Indeed, they might have searched these to the utmost without finding much to guide them; for it may be noticed that, loquacious as the civilians are in stating and solving abstract cases of legal difficulty, they are shy in dealing with the practical institutions of the Empire, and what we know of these, in fact, has only been extracted by slow degrees out of literature and history. It was from the still living practice of these institutions over the Roman world of the Con-

tinent that they passed into Britain, where there were social and political conditions that made them acceptable, and gave them a firm rooting.

While the internal machinery of these institutions was taken precisely from the Roman model, there were in their political relation to other members of the state notable differences of a very instructive kind. There were marked dissimilitudes between the standing of corporations in some parts of Europe and their standing in others; and some of the corporations, such as those of England and Scotland, though in their internal structure they were copies of the Roman municipalities, had not the same relation towards the ruling power. In some parts of Europe the municipalities were so powerful that, in the reconstruction of the several powers during the middle ages, they worked themselves into separate states—such were Florence, Venice, Genoa, and Hamburg. Even in Russia the municipal authority was so powerful that it had a long contest with the royal or imperial authority; and it used to be a common saying in reference to the mighty power of the chief corporation there, "Who can resist the great God and Novgorod?" In Britain, all the corporations were subsidiary to the supreme power. In the corporation of London only do we find the relics of some bold efforts to achieve an independent legislative existence—an aim in which so potent a community might have succeeded in a country with a less sufficient central government than England.

Great and small, we can best understand the special character of the corporations by looking on them as mighty relics of the Roman Republic. Rome was itself a great republican corporation; and when it conquered

far and wide, it naturally would not place its acquisitions under monarchs, but multiplied over them the forms of its own republican institutions. These were not congenial to the imperial government, but the municipal system was firmly rooted long before the Empire, and there was still a sufficient framework of republicanism in the imperial city itself to keep the corporate arrangements alive. Thus the corporations during the subsistence of the old Empire were so far different from those of later times, that they all held by, and were dependent on, the great corporation of Rome as a centre. By their later constitution, which still nominally exists, some of them became, as we have seen, separate states, while others were dependent on monarchs, or on great spiritual or temporal lords. The tendency of their spirit was, however, antagonistic to feudalism, and they proved generally to be separate plebeian or republican institutions having a separate interest against the aristocracy, which was apt to bring them into alliance with monarchies.

It was especially so in Scotland. The highest kind of corporation—the Royal Burgh—has always been the direct creature of the crown. It must have been created by royal charter; and in some instances where no such charter has been found, and where perhaps none ever existed, the law, on proof of immemorial possession of the privileges of a royal burgh, has presumed that a royal charter of erection once existed. The chartered royal burgh in its corporate capacity was the same thing in the feudal hierarchy as a great lordship holding directly of the crown. There was this specialty in its constitution, that within the bounds of its privileges it could not subfeu and create vassals

subservient to it, as a great lord could on his domains. Every burgess was a direct vassal of the crown. This specialty is curiously and very distinctly marked in the conveyancing of the present day. Suppose one trader should buy from another two houses in the town they live in, one of them within the old chartered burgh, the other in a portion of the town stretching beyond it: for the burghal tenement, as it is called, the purchaser becomes a vassal of the crown; for the other it may be convenient that he should become the vassal of the seller, and acknowledge his brother trader as his feudal lord.

There were, from the earliest time within the period of records, two other kinds of municipal corporation—the Burgh of Regality and the Burgh of Barony. The simplest account of the difference between these is, that while each held in vassalage not directly of the crown, but of some great lordship, the regality, with the burghal community belonging to it, was of higher rank, and swayed a greater power than the barony. The regality, with which we have already made some acquaintance as a feudal dignity, professed, indeed, to be a communication to its holder of the royal prerogatives, after the fashion in which the papal prerogatives were communicated to a legate *a latere*. Burghs of regality and of barony thus held in the feudal hierarchy, not of the monarch, but of some great lordship. Whenever the law was interpreted for the crown, it was always maintained that a royal charter was necessary for the creation of either. On the other side, some of the great heads of feudal houses, who in Scotland so often came near to rivalling the monarch, professed to create such corporations. The crown asserted its pre-

rogative either by extinguishing such a grant or sanctioning it, and probably adopted this latter alternative when the other would have been preferred had it been sure to succeed. Thus in one way or other, down to the time when government got into a settled shape and kept to precedent, the crown preserved the prerogative right of giving life to municipal corporations of all grades. Some of the regality and barony corporations became rich and powerful, and then were raised to the rank of royal burghs. Several of them held under ecclesiastical lordships, such as the great abbeys, and these had generally a far better lot than those which were under the banner of quarrelsome lay lords.

No higher class of municipal corporation than the royal burgh was known to the law. The Civitas, or city of the Romans, which is understood to have expressed a central corporation governing others of inferior degree, was not an institution of Britain. Some towns were called cities by way of distinction, but this was done from accidental conditions which gave no special powers to their governors or representatives. Edinburgh became a city as the seat of royalty. When the great Italian municipalities revived after the fall of the seat of empire, the ecclesiastical part of the imperial system, which so effectively survived the political, took them in hand, and the bishops became their rulers. Owing, it is said, to this specialty, a certain municipal rank was permitted to accompany a bishop's see, and in England the cathedral town came to be called a City. The practice seems to be represented in St Andrews in Scotland, and in Glasgow, which was for centuries in burghal rank a mere burgh of barony.

Such terms as "municipality" and "corporation" are not to be traced back to ancient use in Scotland. It is not likely that any of the framers of the corporations knew that they were copying institutions invented by the Romans. They were spread over Europe, and found their way over to this country, where they were eminently adapted to the spirit of the people. The name by which they were called bears witness to the purposes for which they were devised. The word "broch," both in England and Lowland Scotland, meant one who pledged himself for another, or became bail for him. So in the English form of "borough," and in the Scots of "burgh" or "burrow," it meant a community, who, united together in a common lot and cause, were pledges or securities for each other. The position of these communities, indeed, could not be better expressed. Holding their own as they did against the powers of the feudal aristocracy, and sometimes against the monarchs who were in use to make common cause with them, they found that in their hands the capacity of the numerous weak to stand up through the influence of combination against the individually strong, was sorely tested.

The Roman municipalities, as we have seen, were subordinate to the great central corporation, Rome; and even after the Empire this subordination was to the republican elements of the chief city rather than to the imperial. There was thus an assimilation between the central authority and all its adherents not to be found in the feudal corporations. Yet efforts were made to keep up a responsibility to the power of the crown by appointing a great officer to take charge of the burghs, and see that all things went as they should

within their walls. This high officer was the Lord Chamberlain. He was required to hold stated Iters, or circuits of visitation, in order to see that all the functionaries in the burghs performed their proper duties. One of the oldest of the old collections of laws sets forth with extreme distinctness all the duties as to the due performance of which it is *his* duty to make investigation. These need not be repeated here, as they are of the kind of matter which, whether dealing with ancient or with modern affairs, forms dry reading to those who do not happen to have some special source of interest in them.[1] This kind of central responsibility does not seem to have assimilated itself, like that of old Rome, to the corporate spirit. The functions of the chamberlain gradually fell out of use and were lost; we have, indeed, scarcely any trace of their existence, except in the elaborate code in which they were set forth, and probably they were a great project found not to work. The burghal corporations at all events ceased to be under control, and as independent communities scattered over the realm it was necessary that their powers should be limited, otherwise there could be no supreme government. Before, however, they felt the restraint of king and parliament, where they had their representatives to console them for loss of separate power, they had perhaps accomplished their mission by establishing several little centres of reaction against the predominance of feudal or aristocratic power.

As with the seignorial powers which were in vital force before the crown professed to create them, so it

[1] Iter Camerarii, of which the best edition is in the first volume of the Scots Acts.

seems to have been with the municipal bodies, and their incorporation under the crown became thus a compromise, by which, on the one hand, their powers were kept within certain limits, and on the other they got the countenance and protection of the monarch. It is certain that mention is made even in royal documents of the existence of burghs long before the time when there is trace of any royal charter of erection having been granted. Perhaps the oldest known charter absolutely bringing a burgh into existence is that in which, about the year 1200, William the Lion created the burgh of Ayr, to be convenient to the castle which he had there built at the mouth of the river. But charters much earlier reveal that there were burghs in existence and recognised by name at the time when they were issued; for instance, some fifty years earlier, King David grants to his mother's Abbey of Dunfermline property in his burghs of Edinburgh, Perth, Stirling, Haddington, and Dunfermline.[1] In fact, the extent of the trading and municipal power that had grown in Scotland before the War of Independence is not easily realised, on account of the supremacy which feudalism obtained over it after the termination of the war. The crown is found with a liberal hand endowing municipalities with powers and privileges; yet it is easy to see that the liberality of the crown is measured by the power and influence already in possession of those whom it professes to favour. By one brief but very remarkable charter, King William the Lion gives the royal authority in a general way to municipal powers, which seem to have been too wide, alike in their character and their territorial extent, to be specifically

[1] Report, Commission of Inquiry as to Royal Burghs.

defined by the officer who prepared the crown writs. This document professes to confirm privileges which existed in the reign of King David. They were possessed by the burgesses of Aberdeen and of Moray, and in fact by all the burgesses north of the Grampians; and the nature of the privilege was the holding of a free "ansus" where and when they pleased.[1] The ansus was a privilege of trade and association. What its exact technical meaning may have been it is difficult clearly to define; but of the extent to which these might reach we know by the example of the great Continental association of the Hanse Towns.

About the time when the municipalities were first represented in parliament, dubious theories already referred to have been afloat: in these it seems to have always been taken as a point in favour of the antiquity of the popular element in the Scots Parliament that they held an early place in it. It may be questioned, however, whether, in their palmy days before the great war, a junction with the feudal parliament, such as it then was, must have been of necessity an object in the direction of their aggrandisement.

Looking forward, we find the earliest parliament in which the representatives of corporations held a secure place to be Bruce's great Parliament of 1326; when a supply was voted to meet the pecuniary cost of the War of Independence. In the mean time the burghs had become so much more matured for combined constitutional action than the other powers of the state,

[1] "Burgensibus meis de Aberdoen, et omnibus burgensibus de Moravia, et omnibus meis ex aquilonali parte de Munth manentibus, liberum ansum suum tenendum ubi voluerint et quando voluerint."—Leg. Dav. I. Vestigia, A. P. i. 77.

that they were articulating themselves into a sort of separate parliament. How it fared with the Hanse associations north of the Grampians, and whether they ever showed head or strength, we now know not. It is pretty clear that no such associated institution survived the great war, although several eminent burghs arose out of its separate elements.

In the south, however, there was a burghal parliament. When we first make acquaintance with it, it is called the Court of the Four Burghs. These were Edinburgh, Berwick, Stirling, and Roxburgh, and it seemed to have retained its old name when other corporations joined it. Its functions were that mixture of the judicial and the legislative always found in the earlier legislative assemblies of modern Europe. It reviewed the decrees of the Lord Chamberlain in questions where individual corporations were concerned, as the English Parliament reviewed the decisions of the king's judges, the Chamberlain himself sitting with them, and probably guiding their proceedings after the practice still followed by some law lord in the House of Lords.

The Court of the Four Burghs did not restrict its legislative powers to municipal organisation—it established rules of law on matters of private rights and obligations—as, for instance, on the rules of succession to the property of burgesses.[1] On such matters they

[1] It seems to have been held by the chief courts that the burghs might have special laws of their own for private rights and obligations, and that the Court of the Four Burghs was the interpreter of these laws. Thus Marjory Moygne, widow of a burgess of Berwick, sues her husband's executor for 200 merks settled upon her by her deceased husband before marriage. He died bankrupt, and she maintains that, by burghal custom, her claim became a privileged debt, which must be paid before the estate is distributed by dividend among the other creditors. The supreme judicatory

took earnest counsel with their brother corporations of England, showing, in an eminent degree, that spirit which has made the great trading towns of Europe ever seek the establishment of uniform laws as an efficacious facilitator of trade, by enabling every trader to know how he is bound to act, and what form of bargain will hold good in the various places in which he trades. Altogether the laws of the Four Burghs are more complete and compact, and have in them more of the qualities of a body of statute law, than any other fragments of ancient legislation in Scotland.

The power which this body must have had of old is attested by its marvellous tenacity of life. By degrees it absorbed all the royal burghs of Scotland; but as it thus widened, its separate influence dwindled, not so much from this widening, as because the municipalities took their place in the general parliament of the land. Under the name of the "Convention of Royal Burghs" it continued to adjust questions about the internal constitution of the separate corporations. This function was superseded by the Burgh Reform Act of 1833; but the Convention still duly meets every year in Edinburgh, and has its formal parliamentary sittings, as if to keep the institution alive and ready for action should its old powers ever revisit it.

for the time refer the question to the Court of the Four Burghs, who report the custom to be in favour of the widow: "Requisiti fuerunt de consuetudine burgorum, si petitio dotis sit principale debitum, necne, et si debeat solvi præ aliis debitis. Qui dixerunt quod lex et consuetudo burgorum Scotiæ talis est, quod petitio dotis est principale debitum, et quod præ aliis debitis debet solvi." It is very unlikely that this litigation would have come down to us if it had not become memorable from one of the parties appealing against a judgment in Scotland to King Edward I. of England, when he was asserting his right of superiority over Scotland. The affair thus became a leading case of signal importance, and was preserved in Ryley's Collection of Pleadings in Parliament, p. 145.

The franchise for the election of magistrates was very wide—so wide as to be rather indistinct, and afford ground for critical contention. On the first mute after the feast of St Michael they were to be chosen in common consultation; they were to be chosen by the good men of the town—those who were leal and of good repute.[1] It is not even provided that the electors must be burgesses—and that rank was not difficult of attainment, as we have seen in that law which conferred it on a fugitive serf from any of the feudal lordships, who could hold on for a year and day as an inhabitant of the burgh. There seems to be no trace of thraldom or serfdom within the Scots burghs.[2] In this, though hardly in anything else, they stand in contrast with the English corporations, in which the existence of a servile class is marked by the emphatic use of the word Freemen as applicable to the persons who were not in slavery.

[1] "Communi consilio proborum hominum villæ qui sint fideles et bonæ famæ." In the vernacular version: "Thruch the consaile of the gud men of the toune, the quhilk aw to be lele and of gud faine."—Leges Burg., lxx.

[2] There was one provision of a correctional character affecting bondmen within burgh, which only tends to show that there they were not in their natural place. The king's bondmen were excluded from the privilege of freedom by burgess qualification, and consequently it is one of the chamberlain's functions, in looking after the interest of the crown, to see that none of the king's bondmen or "natives" are hiding in burghs—"de nativis domini regis latitantibus in burgo."—De Articulis Inquirendis, St. i. 317. It does not appear whether the king came within a restraint against the seizure of bondmen during the peace of a fair, or during the holding of a common fair in the town. In the vernacular version: "Gif ony man fyndis his bond in the fayre, the whilk is fra him fled, quhil the pece of the fayre is lestand he may nocht of lach chase ne tak hym."—Leges Burg., lxxxviii. Another provision in the same code seems to show that the rich burgesses kept hired domestics. The flesher or butcher, while killing and sorting meat in the house, is to eat at board with the servants—"cum servientibus."—Ibid., lxiv.

Through all this democratic spirit, however, there is a curious aim at severing the occupants of civic dignities from all sordid contact. Those honoured with the magistracy must not bake bread nor brew ale for sale in their own dwellings.[1] The Merchant Guild was a separate corporation within the burgh for purely trading purposes, apart from mechanical pursuits; and indeed this was the class which in Scotland seems to have been specially fenced off by exclusive corporate privileges. They had to pay for these, in some measure, by supporting the dignity of trading over mechanic pursuits, and three branches of handworkers—lytsters or dyers, fleshers or butchers, and shoemakers—were signalled as incapable of holding the rank of Guild brethren, unless they should abandon the pursuit of their craft with their own hands, and conduct it solely by employing hired operatives.[2]

The old trading communities were fortified by strong exclusive privileges: these lived down even to the present generation, and were extinguished with the unanimous censure which attends upon the burial of intolerable abuses. But a participator in this censure might, without inconsistency, have a word of apology for the exclusive privileges in the days when they were established. These were days of strife and tyranny, when one order required to protect itself by something like the organisation with which others were prepared to

[1] Leges Burg., lix.—In the vernacular version: "Nane aldirman, bailzie, na bedell sall bake brede na brew ale to sell wythin thar awin propir house durande the tym that thai stand in office."

[2] Leges Burg., lxiv.—In the vernacular version: "Of thaim that may nocht be in the gylde. It is to wyt that nothir lytstur nor fleschwar nor soutar may be wythin the fredome of the gylde, bot gif he sall forsuer to do that craft wyth his awne propir handis, bot wyth servandys undir hym."

attack it. The exclusive corporation was made so, to protect it from the host of potent enemies that surrounded it; and it was when personal greed and selfishness protracted the exclusive rules into the time of law and order that their mischievous injustice was perceptible.

The vicissitudes of these old corporations have for us the interest attending on everything that at some distant period has held a great place in the esteem of men. Of Roxburgh, one of the four pre-eminent cities, there stands not one stone above another. Inverkeithing, where sometimes the burgher parliament and sometimes the king's court was held, is a dirty village, curious in its squalid memorials of old importance. Glasgow has long ceased to bewail the oppressions which as a mere burgh of barony it suffered from its haughty neighbour Rutherglen, a royal burgh, with exclusive privileges of trade over the surrounding district. Most memorable of all has been the fate of Berwick. From its wealth and magnificence this town was becoming the capital of Scotland, as London had become that of England.[1] Indeed, it stood in the estimation of contemporaries as a rival to London and some of the great Continental municipalities. The English Government repeatedly tried to set up a castle

[1] "Ipsa civitas quondam adeo populosa ac negotiosa exstiterat, quod merito altera Alexandria dici poterat, cujus divitiæ mare, et aquæ muri ejus." —Chron. de Lanercost, 185. The chronicler, who is a churchman, praises the liberality of the citizens in contributing to religious and charitable institutions; but, as will occur, there are exceptions. There was a foundation to honour the festival of St Francis, and the endowment of certain poor brethren, whom the corporation were beginning to starve; but they were checked by the apparition of its founder, John Gray, who was both a knight and a burgess. In the Livere de Reis (319) it is said that, when the English took the town, "there great possessions were found, and much property."

on the south side of the Tweed, to menace it and cripple its trade, but the project was ever defeated by the vigilance of the burghers, backed by the Government of Scotland; and the Bishop of Durham having once managed to get the castle erected, it was pulled down again.[1] The fate of this great trading mart was that which ever must befall a centre of civilised industry, when in the course of events it becomes the centre of an exterminating war. Berwick became the one trophy which England retained of the great contest with Scotland, just as Calais was for long the one monument of the subjugation of France. Berwick remained long on the statute-book a signal memorial of the precision with which the marches between England and Scotland had at last been drawn. The Acts of Parliament which were to be law for England could not be law there also, unless they specially included "the town of Berwick-upon-Tweed."

Such recollections give emphasis to what is perhaps, on the whole, the most interesting feature in the Scotch municipalities—their close harmony with those of England. Although, as we have seen, the Government of Scotland would not permit a frontier fortress to be built on the English side of the Tweed over against Berwick, yet there was so little jealousy of general intercourse between the two countries, that we find notice of a bridge across the Tweed at Berwick so early as the year 1271.[2] The harmony between the municipal in-

[1] Chron. de Lanercost, p. 7.

[2] In that year Adam de Bedford was beheaded in England for having associated with pirates (praxlones maris) in Scotland, at the north end of the bridge of Berwick. The object of the procedure, whence this isolated fact is learnt, appears to have been to establish by inquest that he had property in England, so that he might be punished there for

stitutions of the two countries is witnessed even in their nomenclature, the English terms Mayor and Alderman being of common occurrence in Scotland until entirely superseded in after-times by the terms savouring of France—the Provost, the Bailie, and the Dean or Doyen. The thoroughly Anglo-Saxon character of these institutions must be visible in what has been already said of them. But there is more distinct testimony to the harmonious action of the municipalities of the two countries. We have seen that the Scotch corporations took advice of those of England as to proper corporate custom and law. As there is little doubt that the impulse given to the corporation systems in both countries was excited by the determination to combine against Norman oppression, England, from far deeper sources of experience, was able in such a matter to give sound advice to Scotland. At all events, we have abundant evidence of similarity, and even identity, in corporate institutions. In the collection where all that is now available to us about these and other Scots institutions contemporary with them is stored up, there is a careful comparison of the vestiges of municipal organisation in England and Scotland, showing identity both in substance and language.[1]

offences committed in Scotland (Calendarium Genealogicum, 56 Hen. III., p. 159). The Scala Chronicle mentions, about ten years later, the destruction of the bridge from the swelling of the river. It is a coincidence that might have been thought ominous, that a chronicler, in the page in which he commemorates King Edward's assumption of the title of Lord Paramount and his right to dispose of the crown, records the fall of this bridge. "Enviroun cel hour chey le pount de Berewick outre lew de Twede de grant cretyne de eaw, pour ceo que lez archis estoient trop bassez."—Scalacronica, 118.

[1] As containing the authority for all that is here said about the Scots municipalities, reference is made to the collection of old laws in the first volume of the Record edition of the Scots Acts, and to the commentaries

It would be a great addition to what we know of the growth of civilisation among us, could we realise the internal aspect of one of these burghs, with its streets and shops and houses; but there are scarcely the faintest means of doing so. Although there are other relics of far earlier periods, there is no remnant of domestic architecture in Scotland nearly so old as the great war. Any buildings that tradition may happen to carry back to such a period are certainly of far more recent date—at the earliest, generally of the sixteenth century. But the fact is, that unless in those towns of Italy or central Europe where the Roman plan of building houses with stone continued down through the changes in architecture of the Gothic periods, there are hardly anywhere traces of purely domestic buildings of so early an age. Where very ancient types of structure exist in the streets of towns, they are generally found to have belonged to ecclesiastical edifices.

We must suppose the houses of the old citizens of Scotland to have been built of wood, like those of England and of northern Europe generally. We have seen that it was an ancient practice of the Columbites to build their houses, and even their churches, with wattles, after the manner of basket-work, and the

by which they are accompanied. The identification of the substance of burghal institutions in the two countries will be found in the notes to the preface (p. 33), accompanied with the remark that "it is hardly necessary to observe that no feeling of hostility yet interfered between the two countries to prevent the inhabitants of Lowland Scotland and of England, kindred in blood, language, and manners, from adopting together the steps of a system which opposed, to the oppressive power of the Norman nobles, the union of numbers in each town, and the combination and mutual support of the trading communities of the whole island."

practice continued down to the eighteenth century in the Highlands. It was natural to the places where oak coppice grew; and the house so built was not so unsubstantial and comfortless as the dwellers in stone or brick houses might suppose. The walls were of a stout double framework, with turf or earth piled in between, so as to make them as thick as might be desirable.[1] We know that the houses in the towns were extremely combustible; and the old burghal code contains anxiously-prepared regulations touching the spreading of conflagrations.[2] Whole towns were often burnt down. As some particular season becomes memorable for its unprecedented multitude of shipwrecks, although such disasters are of common occurrence, so the year 1244 became memorable in Scotland for the multitude of its city conflagrations; and if we believe the chroniclers, the towns of Haddington, Roxburgh, Lanark, Stirling, Perth, Forfar, Montrose, and Aberdeen, were burned to ashes.[3]

It is the less likely that domestic houses were built

[1] In the year 1233, when the Abbey of Paisley had an inquisition to revindicate certain lands on the Clyde which they said had been impropriated from the church of Kilpatrick, Alexander the son of Hugo attests how, more than sixty years previously, he had, when a boy, going with his father on a visit, seen a certain Bede Ferdan living in a large house built of wattles beside that church — "habitantem in quadam domo magna fabricata de virgis."—Feuda Vetusta, 85; Act. Parl., v. 1.

[2] One of these curiously exemplifies the neighbourly and kindly spirit often enlightening these ancient laws. He from whose house the conflagration may have spread is not to be too heavily responsible, for the poor man has his own griefs. In the vernacular version: "Gif that fyr passes out of ony mannis hous, quharthruch hapnis mony housis to be brynt to the nichtburis, na greyff nor na dystroblans sal be done til him mar than he has, for sorow and hevines has he ineuch foroutyn mar." —Leges Burg., l.

[3] "Usque ad cineres."—Scotichron., ix. 61. He calls them "fere omnes burgi Scotiæ."

of stone, as it is probable that down to the opening of the War of Independence there were very few castles built of stone in Scotland—that is to say, strong towers which were alike fortresses and dwelling-houses according to the Norman and the Gothic fashion. It has already been observed for its political significance, that there are no remains of Norman castles in Scotland.[1]

This type of architecture is endowed with extremely distinctive features, which at once tell their own history. They are the continuation—the degradation, some might say—of the Roman type; and no one can tell exactly where the one ends and the other begins, or where the boundary-line lies between the classical and the Gothic. It has been said that the term Norman is

[1] The way to make sure of accuracy in such comprehensive assertions is to strive to find out the exceptions. In this the Author has done his best, and has recommended others to do the like. He was much struck by the Normanish tone of a gateway drawn as an illustration of a privately printed book called 'Memorials of the Montgomeries.' It is in the small town of Irvine, in Ayrshire, and belongs to a ruined building once the residence of the Montgomery family. A visit to the spot rather confirmed the notion that some of the features of the building were of the later Norman. There is a round arch, with thinnish rounded mouldings, and small round pillars with squared or bevelled bases and capitals, with the tooth or star decoration in the hollows of the mouldings. The doorway has more of an ecclesiastical than a baronial look, although the building it belongs to is baronial. The features are certainly those common to the latter period of the rounded and the beginning of the pointed architecture. At the same time the rest of the building is of later date, and it would require the eye of one who is not only an archæologist but a practical architect to determine that the gateway really is of the age it professes to belong to, and has not some little feature betraying more recent workmanship—a means of detection which the imitator rarely escapes.

In Grose's Antiquities of Scotland there is a drawing of a doorway of Closeburn Castle in Dumfriesshire thoroughly Norman. On a pilgrimage to the spot, however, no such doorway and no vestige of Norman work could be found. The castle is just the featureless Scottish peel tower of the fifteenth or sixteenth century. Such has been the result of a search after Norman work in the baronial architecture of Scotland.

not a proper name for this form of architecture, since it was adopted, with more or less variety, by all the communities which followed the fashions of the Romans; but it became especially the function of the Normans, as the active propagators of civilisation, to spread the method of building which they had seen in their conquests in Italy and France. The baronial form of it, at all events, was directly theirs. Wherever they went they built castles, and as the style of building them changed with time until it worked itself into pointed Gothic, we know by the castles of a country at what time the Normans rooted themselves in it. In England it was the time of the great square towers, with round arches and no outworks; in Scotland, as well as in Wales and Ireland, it was the time of the pointed arch, with central towers and circular flanking outworks.

Of this class we have fine specimens in Scotland —Bothwell, Caerlaverock, Kildrummy, Dirleton, and several others. The oldest of them is perhaps Hermitage, which has scarcely any flanking works—nothing but abutments at the corners, like the Norman towers, but in this instance they meet in a wide Gothic arch overhead. The erection of this castle was a political event importing that such buildings were rare. It has been told that in the year 1244 King Henry of England marched a great army northwards to attack Scotland, and among the grievances he had was the erection of this castle in Liddesdale so near the English frontier—it was denounced as a threat on the border, just as Scotland denounced the castle on the English side of Tweedmouth.[1]

[1] "Quod quoddam castellum erectum fuit per Scotos in marchiis inter Scotiam in valle scilicet de Liddale quod appellatur Hermitage."—

These fine Gothic buildings, probably the greater part of them built by the English invaders, are thus our oldest baronial remains. The rude square towers so abundantly scattered over Scotland, though invested by local tradition with indefinite antiquity, belong to the period after the war, and are generally no older than the fifteenth century.[1] What, then, are we to make of the numerous historical events in which castles figure back to the earliest times—castles still

Scotichron., ix. 61. Even though this story of the English taking umbrage be not correct, the passage shows how important this castle was considered. I believe it to be about the oldest baronial building in Scotland. It is strange that a building with such a memorable after-history—the abode of the wizard Soulis, the prison where Sir Alexander Ramsay was starved to death by the Knight of Liddesdale, the place to which Queen Mary made her frantic journey to see the wounded Bothwell—should have escaped the pencil of the illustrators of Scottish architecture and scenery. There are, to be sure, representations of it, but I never saw one which gave a notion of its very peculiar architectural character.

There is something suggestive in finding that this, seemingly the earliest strength built in Scotland according to the new method, belonged to the most powerful of all the Norman settlers, the Comyns. It is very likely that there were then no such buildings in the royal fortresses. Had they existed in Edinburgh, Dumbarton, or Stirling, for instance, it is very unlikely that they would be utterly obliterated, for architecture of this kind survives an enormous deal of pommelling, hard usage, and even improvement. The White Tower of London betrays its Norman features vividly, for all the pains taken to obliterate them. On the rock of Edinburgh Castle there is one relic of old architecture, older still than Hermitage ; it is a Norman church.

[1] When a building has any ostensible claim to antiquity as an obsolete type of castle or church, there is a popular notion that rudeness and decay are marks of age. No buildings last long but those that are firmly built, and our having in existence buildings of any assigned past age, depends on whether there was then a zeal and aptitude for thorough good mason-work. Hence very ancient buildings often seem more modern than others built centuries afterwards. Pæstum would seem fresh and new beside many of our buildings of the Restoration time of Doric architecture. It happened that the masons in Norman, and after them those in early pointed architecture, did their work thoroughly,

existing, as Edinburgh, Stirling, Dumbarton, and many others? Places of defence they were, no doubt, but it does not follow that they were castles such as arose in England in the reign of Stephen, and in Scotland in later times. In the old Scottish strength it seems likely that the fort and the dwelling-house were not mixed up—that there was a fortified rampart, with unfortified dwelling-places inside; and if it was so, it can only be said that the Vauban system of fortification has brought us back to the same idea. It is not to be supposed that the great circular ramparts of stone known as hill-forts were in use in the historical period.[1] Their names do not answer to those of the castles historically spoken of, and they were far too large to have been permanently occupied as fortresses; some of them could only have been manned to any effect by large armies. We find traces of narrower defences, and these are not always on the ground that is naturally rough and precipitous. Abrupt trap-rocks shooting out of the plain, as in Edinburgh, Stirling, and Dumbarton, formed natural sites for fortresses that could not be overlooked. Otherwise, however, the engineers of these early works seem to have dis-

laying it in courses of square close-cut blocks. Hence it will happen that the keep of a Norman castle seems to be more modern than the rude, decaying buildings of later time which cluster round it.

In the outlying districts of Scotland—those which were hardly under the crown till a later period—there are some rather puzzling castles, such as Castle Swein, opposite to Jura, and Dunstaffnage. These have little of the decoration that enables us to assign a building to its proper period of the Gothic series, and they have not the finish of the good specimens of the Norman and earlier pointed work; yet they are evidently early in the series, probably little, if at all, more recent than Hermitage. One might imagine them as built by the Norwegian potentates of the West in imitation of the models furnished by the English Normans.

[1] See an account of these above, chap. iii.

liked rocky ground, and to have affected earthen mounds, some artificially made, others scarped out of diluvial banks. The reason for such a selection seems to have been the opportunity which an earthen mound gave for staking. There are several of these mounds in Scotland, circular or oval, rising very abruptly from the plain, with a flat table of turf above. The ruins of Roxburgh Castle stand on one of these; there is another at Lochmaben, on which stood, doubtless, a castle earlier than the present. Ruthven Barrack stands on a good specimen of the same kind of work; and there is another very remarkable, called the Peel Bog, at Lumphanan, where Macbeth was slain.

It will be seen that these generally have a strategic command of a country. The abrupt diluvial slope on the edge of a stream often afforded this by its geological position, and saved the trouble of raising artificial earthworks. At Forteviot, reputed to have been the capital of the Pictish kings, the little river May, after tumbling down the sides of the Ochils, makes a sweep round abrupt banks of this kind. Standing on their ridge, one can see how a fortress there commanded the passage of the mountain districts, both of the Grampians and the Ochils, through the great valley called Strathearn, still the main highway between north and south in Scotland. As to the dwellings within the ramparts of these fortresses, it is only to be supposed that they must have been built of the materials most readily at hand. That they were generally built of wood is inferred from the numerous burnings of these forts. Destruction of strongholds by fire is of continual occurrence, from the dawn of history to the destruction of the Lord of Athole by the adherents of the Byssets in

Haddington, and the burning out of the English garson at Lanark by Wallace.

Whether or not this be a correct idea of the system of fortification in Scotland before the great war, it is at all events certain that, of castles of the Norman type, prevalent from the time of the Conquest to well on in the thirteenth century, Scotland can produce nothing to show that the country was under the influences which produced the grand specimens yet existing in England. The political significance of this is the more remarkable, as ecclesiastical buildings in that style in Scotland are abundant and magnificent. These are the mark, indeed, of the united inroad of Norman manners and Catholic unity according to the Roman model.

A word may be said about some relics of another religious school, the existence of which only tends to make more emphatic the impulse given at one and the same time to the architecture which came from Rome, and to the ecclesiastical system which radiated thence. Most people have heard of those mysterious edifices, the Irish round towers. We have two specimens of the same structure in Scotland; there are none in England or on the Continent. Buildings so exclusively peculiar could not but excite curiosity and wonder; and the more so that, while they stood beside churches, or were, indeed, actually part of them, yet it was clear that they were built at a different time, and never formed any feature of the design on which the church might be built. Many brilliant theories about temples of Phalic or Buddhist worship, and astronomical observatories for contemplative Druids, were dispersed by a minute comparative analysis of the features of the several round towers, and an examination of any scrap

of history relating to them.[1] The results were clear, and adjusted themselves easily to historical conditions. Though different in their general form and structure from other early Christian buildings, yet many of the round towers had mason-work of the unmistakable Norman type; others were raised by builders who apparently were not acquainted with the structure of the arch, and who had neither this evidence of scientific advancement in architecture, nor any of the minor adaptations of the Norman school. A knowledge, then, of what was doing elsewhere, seems to have come in upon the native builders while they were at this kind of work, and so the later of the round towers are identified with the Norman period of architecture.

They were eccentric, however, in this, that while the Irish ecclesiastics seemed to have built nothing else of stone, or nothing of a lasting kind, they had raised these prodigious towers. Yet if we suppose their means to have been limited, this devotion of them would, keeping purely ecclesiastical purposes in view, be a good investment. The great difficulty they had to deal with was the sudden invasions of the Norsemen, who carried off what was ready to their hand, and burned what was destructible. One cannot suppose better fortresses of defence against enemies like these than the round towers. They had no stairs, and could only be scaled by ladders. Nowhere could

[1] A good example of how the same thing may be done in two totally different ways is found in comparing Mr Petrie's solid and cautious investigations with the smaller but prodigiously more ambitious book of his rival, Henry O'Brien, 'The Round Towers of Ireland; or, the Mysteries of Freemasonry, of Sabaism, and of Buddhism for the first Time Unveiled.' This is about the wildest and grotesquest flight that archæological speculation has ever taken, and that is saying a good deal.

the treasures of the Church—the books, the relics, and the objects of more material value—be so safe as high up in one of these stone tubes, whether attended by a guard or not. It was impossible to attack them without a scaffolding of equal height; for to attempt to topple them down by attacks from below, before the days of artillery, would have been destruction to the besiegers.

It was natural that, as the practice of their parent Irish Church, the raising of such buildings should find its way across to the ecclesiastics of Scotland, who came to be called Culdees. We have hence two modest specimens of them where there were eminent Culdee houses—Abernethy, on the south bank of the Tay, and Brechin. The tower of St Regulus in St Andrews, though square, belongs to the same architectural type.

These, then, as relics of the ways of the old Culdees, stand surrounded by the thoroughly Norman buildings of the age of Margaret and David. These are so conspicuous that every one having the least interest in such matters knows them. There are Dunfermline, Arbroath, Jedburgh, Kelso, and Coldingham—great studies for the historical architect. And now that such inquiries have come to be among the hobbies or pursuits of the traveller or tourist, small specimens, sometimes curious and beautiful, have been discovered in unexpected places, to bless the eyes that have first looked upon them with critical discernment.[1]

As we have seen in some other matters, so in this

[1] About the fullest recent revelation of obscure specimens will be found in the two books of Mr Muir, 'Descriptive Notices of some of the Ancient Parochial and Collegiate Churches of Scotland,' 1848; and 'Characteristics of Old Church Architecture in the Mainland and Western Islands of Scotland,' 1861.

of the fashion of church architecture, the traveller crossing the border from England would not have felt that he had changed countries. The leading characteristics are the same in both countries. The Abbey Church of Dunfermline has specialties so identical with those of Durham Cathedral as to suggest that they must have been the work of the same builder. The oldest specimens of pointed architecture in Scotland are rigidly in the style specially called Early English.

These noble buildings could not have been raised in a country where there did not exist riches.[1] It will not harmonise with the proverbial way of dealing with the subsequent condition of the country to say it, but yet I cannot but believe that, before the War of Independence, Scotland was a wealthy country for that day. We cannot strike the balance of the wealth of existing communities, even with the powerful statistical machinery now at our command. We know that they are rich or poor from the observation of many little incidents, perhaps of small moment in themselves. We get at the result by familiarity with these; and it is by such

[1] "The beautiful and somewhat singular architecture of the ruined church of Kelso Abbey still gives proof of taste and skill and some science in the builders, at a period which the confidence of modern times has proclaimed dark and degraded; and if we could call up to the fancy the magnificent abbey and its interior decorations, to correspond with what remains of that ruined pile, we should find works of art that might well exercise the talents of high masters. Kelso bears marks of having been a full century in building; and during all that time at least, perhaps for long afterwards, the carver of wood, the sculptor in stone and marble, the tile-maker and the lead and iron worker, the painter, whether of Scripture stories or of heraldic blazonings, the designer and the worker in stained glass for those gorgeous windows which we now vainly try to imitate—must each have been put in requisition, and each, in the exercise of his art, contributed to raise the taste and cultivate the minds of the inmates of the cloister. Of many of these works the monks themselves were the artists and artisans."—Innes's Sketches, p. 197.

an amount of familiarity as their history records, and monuments afford us, that we can judge of the affluence of the people of past generations. There are many incidental matters that speak of comfort and wealth thus revealed to us in old Scots life. If we grant that the privileges and restrictions infesting trade were beyond what was needed even for such an age, yet they show us that there were riches going about, and that some persons wanted to have more than their due share in them. The assize of bread distinguishes wheat, "white and well bolted," from other kinds with lower privileges; and the burghal code lets us into the secret that there was white bread and brown or grey.[1] In the regulations for killing and curing meat it would be difficult to find any principle of philosophical legislation; but they reveal to us abundant food and lordly tables. The fleshers, or butchers, are to keep good flesh—beef, mutton, and pork—after the ordinance of the good men of the town, and to expose it openly in their windows, that it be seen of all men. They are to serve the burgesses in killing time—that is, from Martinmas to Christmas; and while so at work, are to board with the burgesses' servants. They are liable to penalties if they mismanage the meat.[2] A butcher was not permitted to be a pastrycook.[3] Among matters for inquiry and regulation by the Lord Chamberlain, was whether cooks prepared their food in a fit state for human use.[4] Such legislation is unknown at the pre-

[1] "Baxturis as bakis brede to sell sall bake quhyte brede and gray eftir the consideracion and pryse of the gude men of the toune. . . . And quha that bakis brede to sell aw nocht for to hyde it, bot sett it in thair wyndow or in the mercat that it may be opynly sauld."—Leg. Burg., lx.

[2] Ibid., lxiv.

[3] "Pastillarius."—Fragmenta, St. i. 365.

[4] De Articulis Inquirendis, St. i. 317.

sent day, not by any means because the object has been attained, but because it is hopeless thus to attempt to effect it.

Scotland had the benefit of a complicated tariff, and we must count such an apparatus as a symptom of wealth and civilisation, even though a still higher civilisation denounces it. There is a good deal of trade in skins and peltry; and although this market might be in a great measure supplied from native produce, yet even under this head are names that speak of imported luxuries, as marten, beaver, and sable skin. Then there are duties on pepper, cumin, ginger, almonds, rice, figs, and raisins. The consumption of wine is a matter not so much of tariff as of internal regulation. Hostels or taverns turn up in the charters as a known established institution of the country. For some reason deemed sufficient, in a charter of William the Lion, it is forbidden that in the county of Perth there shall be a tavern in any town unless where there is a resident lord of the degree of knight, and even then one tavern must suffice.[1] A similar regulation applicable to the county of Aberdeen is found in the reign of Alexander II.[2]

What we can catch about the details of trade and agriculture is only in casual fragments. These are chiefly found in the chartularies of the religious houses; and although they were in close connection with places of trade, having under them some burghs with their harbours, and possessing property in others, yet natu-

[1] Vestigia, St. i. 76. The charter is in favour of the burgh of Perth, which is not included in the restraint, and it is supposed that the object was to give the burgh some monopoly in the tavern trade.

[2] Ibid., 77.

rally their title-deeds show more of the farming on their estates than the commerce of the towns. Whether or not their agriculture was of a scientific kind, it is certain that it was systematic and under regulation and supervision. It is possible to define the extent of the cottars' holdings, the produce and its nature, the rent or consideration given, and the arrangements for ploughing the fields.[1] Wheat was grown in the fer-

[1] "There is preserved a curious Rental of the great Abbacy of Kelso of the end of the thirteenth century, which gives us some insight into the rural affairs of the monks. At that time, and probably always, they held a great part of their ample lands and baronies in their own hands, and cultivated them by their villeins from their several Granges.

"The Grange itself, the chief house of each of the abbey baronies, must have been a spacious farm-steading. In it were gathered the cattle, implements, and stores needed for the cultivation of their demesne lands or mains; their corn and produce, the serfs or carls who cultivated it, and their women and families. A monk or lay brother of the abbey superintended the whole.

"Adjoining the Grange was a mill, with all its pertinents and appearance and reality of comfort, and a hamlet occupied by the cottars, sometimes from thirty to forty families in number. The situation of these was far above the class now known by that name. Under the monks of Kelso, each cottar occupied from one to nine acres of land, along with his cottage. Their rents varied from one to six shillings yearly, with services not exceeding nine days' labour. The tenants of twenty-one cottages at Clarilaw, having each three acres of land, *minus* a rood, and pasture for two cows, paid each two bolls of meal yearly, and were bound to shear the whole corn of the abbey Grange at Newton.

"Beyond the hamlet or cottar town were scattered in small groups the farm-steadings of the *husbandi* or husbandmen, the next class of the rural population. Each of these held of the abbey a definite quantity of land, called a husbandland. Each tenant of a husbandland kept two oxen; and six united their oxen to work the common plough. The Scotch plough of the thirteenth century was a ponderous machine, drawn, when the team was complete, by twelve oxen. The husbandland was estimated long ago in the Merse as twenty-six acres, 'where scythe and plough may gang.' The husbandmen were bound to keep good neighbourhood, the first point of which consisted in contributing sufficient oxen and service to the common plough.

"As a fair specimen of the rents at which these tenants sat, we may

tile plains of Morayshire; and it is noticed that there are rules for the protection of growing corn and hay meadows.

"It is noted as a type of civilisation, that in the chamberlain's books there is a charge for a gardener

take the barony of Bowden, which, I believe, is now the property of the Duke of Roxburghe.

"The monks had twenty-eight husbandlands there, each of which paid 6s. 8d. of money rent; but to this were added considerable services in harvest and sheep-shearing, in carrying peats and carting wool, and fetching the abbot's commodities from Berwick. These stipulations are exceedingly precise, fixing even the service, in which the husbandman was to have his food from the abbey, and where he was to maintain himself.

"In the whole catalogue, no service is imposed on women except harvest work; and I believe agriculturists will agree that we have a still more decided proof of advancing civilisation in the fact, that at the period of the rental the whole *services* were in the process of being commuted for money.

"Above the class of husbandmen was that of the yeoman, or bonnet-laird, as he is now called in primitive parts of Scotland. Such an one was that Hosbernus, whom Abbot John of Kelso styles '*Homo noster*'—'our man'—and who got a half plough of land in heritage and perpetuity in Middleham, and became the liege vassal of the abbey, paying a *reddendo* of eight shillings, and giving certain services in ploughing-time and harvest. He no doubt paid for his hereditary right to the lands, and felt himself much above the husbandmen, whose title was precarious. . . .

"The monasteries of Teviotdale had necessarily a great extent of pasture-land; and the minute and careful arrangement of folds on their mountain pastures for sheep and byres for cattle, and of the lodges or temporary dwellings for their keepers and attendants, shows that they paid the greatest attention to this part of their extensive farming. But the immense number and variety of agricultural transactions, the frequent transference of lands, the disputes and settlements regarding marches, the precision and evident care of leases, the very occurrence, so frequently, of the names of field divisions, and of the boundaries between farms, settled by King David in person, show an enlightened attention and interest in agricultural affairs, that seem to have spread from the monastery and reached the whole population during that period of national peace and good government, which was so rudely terminated by the War of the Succession."—Innes's Scotland in the Middle Ages, pp. 138-140, 147.

at the king's castle at Forfar;[1] and in a document of the year 1261 one pleads a right to a garden in Morayshire, whence pot-herbs were in use to be supplied for the king's table when he dwelt in the castle of Elgin.[2]

Roads of various kinds are referred to, and the vehicles which traversed them.[3] Bridges are mentioned, but not so as to give us any exhaustive list of them. There was Stirling bridge over the Forth, spoken of in the laws as the junction point between Scotland proper and Lothian. There was a bridge over the Tay at Perth, over the South Esk at Brechin, over the North Esk, over the Spey, and two, if not three, bridges over the Dee.[4]

[1] Innes's Scotland in the Middle Ages, p. 124.

[2] Vestigia, St. i. 89, 90.

[3] "Roads appear to have been frequent, and though some are called the green road, *viridis via*, and by other names indicating rather a track for cattle, others, bearing the style of 'high way,' *alta via*, 'the king's road,' *via regia—via regalis*, and still more, the caulsey or *calceia*, must have been of more careful construction, and some of them fit for wheel carriages. We find agricultural carriages of various names and descriptions, during the thirteenth century—*plaustrum—quadriga—charete—carecta—biga*—used not only for harvest and for carriage of peats from the moss, but for carrying the wool of the monastery to the seaport, and bringing in exchange salt, coals, and sea-borne commodities. The Abbey of Kelso had a road for waggons, to Berwick on the one hand, and across the moorland to its cell of Lesmahagow in Clydesdale. A right of way was frequently bargained for, and even purchased at a considerable price." —Scotland in the Middle Ages, p. 146.

[4] "If we reflect how few of these survived the middle of the fourteenth century, and how long it was, and by what painful efforts, before they could be replaced in later times, we may form some idea of the great progress in civilisation which Scotland had made during the reign of William and the peaceful times of the two Alexanders. We do not know much of the intellectual state of the population in that age, but regarding it only in a material point of view, it may safely be affirmed that Scotland, at the death of King Alexander III., was more civilised and more prosperous than at any period of her existence, down to the time when she ceased to be a separate kingdom in 1707."—Innes's Sketches, pp. 157, 158.

These are doubtless narrow facts to draw a general conclusion from, and it is not easy to communicate that general impression which the investigator carries with him after rummaging unmethodically among old documents. It would be less satisfactory, however, were we to rely solely on the chroniclers writing after the war, who, seeing around them much poverty and misery, drew a glowing picture of the country's happiness and prosperity before the days of the disputed succession. These reminiscences have a mournful pathos, which goes much nearer to the heart than the ordinary laments for the departure of the good old days, since there is fact and reason for the lamentation. It is perhaps nowhere more touchingly rendered than in a piece of very simple verse, repeated by one of the old chroniclers, and deemed the earliest specimen of rhymed literature in the Scottish tongue.[1]

A glance through the country's subsequent destinies will at least harmonise with the belief that it was opulent at the outbreak of the War of Independence. It

[1] "Quhen Alysandyr our kyng was dede,
That Scotland led in luve and le,
Awaye was sons of ale and brede,
Of wyne and wax, of gamyn and glé.
Our gold was changyd in-to lede,
Cryst borne in-to virgynytè;
Succour Scotland and remede,
That stad is in perplexytè."

Andrew Wyhtoun, who has preserved this for us, was not a political economist, and thinking he must give reasons for the change, found them in the wise policy of King Alexander, who brought a great breadth of land under plough, so that "corn he gart be aboundand," and hence it was so cheap that

"A bolle of átis pennys foure
Of Scottis monè past noucht oure;
A bolle of bere for aucht or ten,
In comowne prys sauld wes then;
For sextene a boll of quhetes."
—Cronykil, i. 401.

was inhabited by the same race, who, since peace with the great neighbour began, has become what Scotland now is. If we look back to the year 1290, we shall find that there had been a long period of tranquillity, in which the country had been consolidating itself. The one considerable warlike affair—the battle of Largs—was merely local. Above all, there had been peace with England for upwards of a hundred years—ever, in fact, since the captivity of William the Lion. Such opportunities for progress and civilisation never came again to the country until the union with England, and after that the subsidence of the elements of strife had to be waited for before the country had a fair field for the development of its energies. From such considerations as these, it does not absolutely follow that Scotland, afterwards so poor, was an affluent country at the end of the thirteenth century; but the considerations are at least in harmony with the material facts tending to such a conclusion.

CHAPTER XVIII.

The Disputed Succession.

KING EDWARD AND HIS POSITION — COMMUNICATIONS OPENED WITH HIM — THE PREPARATIONS FOR THE ASSEMBLAGE AT NORHAM—THE ASSEMBLAGE AND ITS ELEMENTS—THE NOTARY PUBLIC—KING EDWARD'S ADDRESS—THE ASSERTION OF SUPERIORITY — THE ADJOURNMENT — NOTICE TO THE CLERGY, NOBILITY, AND COMMUNITY TO PUT IN ANY OBJECTIONS THEY HAVE—HOW THE NOBILITY AND CLERGY HAD NOTHING TO SAY, AND THE COMMUNITY WERE NOT LISTENED TO—THE ROLL OF COMPETITORS — EXCEPTIONAL CLAIM OF FLORENCE, COUNT OF HOLLAND—ALL COMERS HEARD—THE NARROWING OF THE LEET—THE COMPETITORS FINALLY LIMITED TO BRUCE, BALIOL, AND COMYN — THEIR GENEALOGIES AND CLAIMS AS DESCENDANTS OF THE EARL OF HUNTINGDON—THE MEETINGS AND DISCUSSIONS—THE METHOD OF PACKING A JURY FOR THE DECISION—ADJOURNMENT—DOINGS APART—EXAMINATION AND REMOVAL OF RECORDS—RETURN OF PRECEDENTS ORDERED.

LET us now return to the current of events. Where we left off there were critical communications between King Edward of England and the Scots Estates, which both parties seemed disinclined to push to conclusions until the arrival of the young queen. She died on the way; and with her the parliamentary settlement of the crown and the race of Alexander III. came to an end together. The poor child's death in the journey from Norway was not practically so eminent a political

disaster as the death of Alexander. There was little chance that she should be permitted to rule unless the marriage to Edward's son were accomplished—and the future that might come of that could not be easily forecast. The guardians, of course, continued in office; and the only immediate noticeable event was, that Bruce, Lord of Annandale, appeared with a force near Scone, then the capital of Scotland, so far as the chief residence of royalty and the organisation for the crowning and investment of kings make a capital.

Events had concurred with wonderful precision to throw the fate of Scotland into the hands of the King of England, and all men who knew anything about him knew that he was not a man to let slip his opportunities. At so strange and exciting a juncture in history, the chroniclers are naturally garrulous about such matters as the apprehensions of the people of Scotland and the temper and demeanour of King Edward. Such notices are unsatisfactory at all times; and where we have a deal of matter of the most instructive and emphatic kind preserved in the Norman records of the period, there is not even the ordinary temptation to repeat them. In fact, we know at this day much more about the things done, and even the motives of those concerned in them, than any of these chroniclers did, if we may except those who were admitted to a knowledge of certain secrets in order that they might do services by forgery or falsification —and there is not much to be relied on in the writings of this class. It is proposed, therefore, in the following statement of the events which placed a king on the throne of Scotland, to rely entirely on the testimony of authentic documents standing on record.

Before going into these events, however, it is proper to note in passing a domestic calamity befalling the chief actor; it is of moment, for it appears to have postponed the opening of the drama. Just about the time when the news of the death of the infant Queen of Scotland arrived, Edward was at the deathbed and the funeral of his wife, Queen Eleanor. He left to the world more than one noble memorial of his sorrows for her loss, and there is little doubt that they represented real grief. She was the partner of his perilous life in the Eastern wars, as well as of his pomp and power at home. It is seldom that from the records of royal unions we can carry away the impression of deep-rooted attachment, but it seems to have been so with King Edward and Queen Eleanor. There was a congeniality in the high spirit with which both were endowed; and the qualities that made the great commander, the subtle politician, the unscrupulous usurper of national rights, the cruel tyrant in conflict with his fellow-men,—are not by any means inconsistent with domestic affections deep and tender.

To return to the revelations of the records. The first document of the series has given opportunity for a good deal of criticism, and invites more. It is a letter from William Fraser, Bishop of St Andrews, one of the guardians, addressed to King Edward. It tells him of the rumour of the death of the young Queen Margaret —a rumour not yet confirmed, and which the writer fervently hopes to find ultimately contradicted. The rumour came, it seems, while the Estates were sitting to receive the answer of the king to the refusal to give up the fortresses to him. The bishop tells, as a significant occurrence, that Bruce had not intended to

be present at that meeting, but did come, and with a large force, on hearing of the rumour. What his ultimate intentions might be the bishop professes not to know; but if it be that the queen is known to be really dead, he beseeches King Edward to approach the border, so that he may give comfort to the people of the country, obviate bloodshed, and help the faithful of the land to raise to the throne the man who has the proper title. It is shown that this must be Baliol; and there are some doubtful expressions, which some have interpreted to mean that even he should only be promoted if he shall conform to Edward's policy.[1]

It is very likely that the writer of this letter wished to make favour with the great king; but it is rather stretching interpretations to say that it imported the bishop's betrayal of his country, in an invitation to Edward to come and conquer it. The English king, as we have seen, had stood high in the confidence of those who represented public feeling in Scotland as a powerful and magnanimous neighbour, and the death of the young queen was, on the face of affairs at least, a calamity to him as well as to Scotland. It appears, however, that the bishop stood alone, or nearly so, in at that juncture welcoming the intervention of Edward. Perhaps the confidence the others had in his disinterested kindness as a neighbour had been shaken by the mission of Anthony Beck and the demand of the fortresses. At all events, on the records we find nothing farther in the shape of an invitation from Scotland to settle the affairs of the succession. If an invitation so meagrely sanctioned as this was worthy of being placed on solemn record, we may believe that

[1] Litt. et Autogr. Edw. I., in Tur. Lond.; Fœdera, i. 741.

any of a wider character would have been carefully preserved. None exist, and none are referred to in the abundant documents which do exist; and this is the more noticeable, as the chronicles tell how the community of Scotland invited King Edward to be arbiter among the competitors for the crown, and he, treacherously taking advantage of the opportunity thus afforded to him, laid his plots for the annexation of Scotland. He was prepared to take his own steps without any invitations or persuasions, and, seeing his way before him, went to work with great deliberation.

The next document is dated on the 16th April 1291, and is a summons to the barons of the northern counties of England to attend their king at Norham six weeks after Easter, or on the 3d of June. Among the English barons thus summoned stand the names not only of Baliol and Bruce, between whom lay the real contest for the crown of Scotland, but also of the subsidiary claimants, Comyn and De Ros. Were there any extant document calling on representatives from Scotland to be present, it would be interesting to note its terms, but there is none. In a writ, however, afterwards asking the Scots who were present to attend a meeting on the south of the Tweed, it is mentioned casually and courteously that they had attended at King Edward's request.

The meeting was held at the appointed time. King Edward with his advisers, and a body of nobles and prelates, were there; so were the greater part of the candidates for the crown of Scotland, with their supporters. There may also have been present some who rather represented the Estates of Scotland than any competitor—a miscellaneous assemblage of persons, lay

and clerical, from England and Scotland.[1] There was present a personage of a very lofty position, understood to separate him from all the great interests at stake, in order that he might, standing apart, be able to perform an important function, which connected the imperial system of administration with the feudal. This was Johannes Erturi de Cadomo, notary public of the Holy Roman Empire, who minuted the events as they occurred, and whose record of them, written with his own hand and properly certified, was not to be questioned by monarch, prelate, or baron. Lest there should be any suspicion of slovenliness or inaccuracy getting into the narrative, he takes care, from time to time to repeat that what is said is attested by him, notary public.[2]

And so this assembly proceeded to transact its momentous business. King Edward brought with him an address, which was delivered in Norman-French by his chief justice Roger Brabazon. It set forth that the king had been touched by the condition of Scotland, deprived of her natural rulers by a succession of calamities, and involved in great perplexities, and was influenced by affectionate zeal for one and all of the community, who

[1] "Multisque etiam popularibus tam clericis quam laicis regnorum Angliæ et Scotiæ."

[2] Sir Francis Palgrave says: "The roll exhibits extraordinary care in the manner in which it is made up, being written throughout in a very bold and legible character, by the own proper hand of John of Caen or de Cadomo, sometimes calling himself, according to the style of the Papal Chancery, *Johannes Erturi* [*i. e.*, *filius Erturi* vel *Arthuri*] *de Cadomo*, who subscribes his 'sign' or *paraphe*, and which 'sign' is also affixed athwart the junctions of each of the membranes of which the roll is composed. This last authentication is added for the same reason that a testator now adds his signature at the foot of each sheet of a will. And the whole document was drawn up under the inspection of Master Henry de Newerk and of Sir Roger Brabazon, thereunto specially assigned by the king."—Documents and Records, Introd., pp. liv. lv.

looked to him for peace and protection. So he had asked the meeting to assemble, and had himself come to meet them from distant regions, feeling that, as Superior or Overlord of the kingdom, it lay with him, in virtue of such his superiority and lordship, to do justice to all, and, putting an end to discord and dissension, restore peace and tranquillity to a distracted country. There is next an assurance that he shall take nothing unjustly from any one, nor refuse, delay, or impede justice to any one; but as superior or overlord of the kingdom do ample justice to each and all. Then follows the concluding clause, which was no doubt the object of anxious and thoughtful adjustment. It arose in the adoption of the policy, that it would not be safe to act instantly on the claim of superiority as a thing known and admitted on all hands. It therefore, in a form of peculiar courtesy, desires that, for the facilitation of business, and that he may have the benefit of their assistance in transacting it, those present shall do him the favour to acknowledge his right as superior or overlord.

It is then explained that the reader of this document in Norman-French took pains to render its purport intelligible to all; whereupon, as the record further bears, the Scottish portion of the audience requested time to consult their fellow-prelates and nobles, and the community of the kingdom, before they made answer to this demand. Three weeks were allowed; at the end of that period all were to reassemble at Norham. A distinct answer was to be given on the question of the Superiority, and all who opposed or questioned it were to produce the documents or other evidence on which they founded their opposition or dubiety.

This meeting was to be on Scotch ground, whether to assure the Scots who joined it that they were not under coercion, or for some other reason; and the record, with its usual precision, tells that it was held in the open air in a meadow by the Tweed, opposite to the Castle of Norham, the place of the previous meeting.[1]

Here King Edward's speech was read by the Bishop of Bath and Wells. The preamble displayed the unhappy condition of Scotland, and the goodness of him who came to the rescue, to some extent in the terms used in the previous speech, but with a very distinct increase of colouring, and in a much more affluent flow of words.

After the eloquence came the critical practical point. The bishops, prelates, counts, magnates, and nobles of Scotland had been invited to bring forward whatever they could to impugn King Edward's rights of superiority over Scotland, but nothing to that effect was proffered, exhibited, or shown by them.

After this follows a statement of moment. The community—the communitas—had within the three weeks given in some answer in writing, but it was not to the point. Though it did not seem to King Edward and his advisers to be to the point, yet would many people at the present day like to know what it was that

[1] "Prope flumen de Tueda, ex opposito castri de Norham, in area viridi sub divo." Looking at the massive ruins of Norham, one might imagine it selected as the centre of these transactions, showing to the assembled Scots a visible symbol of the terrible power arrayed against them. It was then freshly built, and endowed with those new elements of resistance and destruction introduced by the Norman kings, which were the wonder and terror of the day. Nothing of the kind existed within Scotland, but there it stood close on the edge of the Tweed—so close that a stone might have been pitched from England into Scotland by a catapult on the battlement.

the community of Scotland had to say against King Edward's demand when the nobles and prelates were silent; still more interesting would it be to know who they were who spoke in the name of that vague communitas. There is little hope now of any such light. In fact, there is evidence that it was convenient to keep out of view the fact that the community of Scotland had spoken out. The Great Roll of Scotland, as published in all the editions of the Fœdera, says nothing about it; and this shows that, if the notary who attested all the proceedings kept a note of this, it was excluded from the roll deposited among the records of the crown in England; and that, as no one can question, with design.[1] At all events, we now know the fact that some answer was made on the part of Scotland to King Edward's assertion of feudal superiority. That this fact has but recently come to light is only too characteristic of all our means of knowing the truth in the great question it bears on. Transactions are profusely recorded, as if for the purpose of courting all inquiry into doubts or difficulties that might affect conclusions, yet one ever feels throughout all this candour that the

[1] Sir Francis Palgrave has preserved a curious little personal matter, in which the king and the notary are concerned. The notary prefers a petition to the effect, "That he has by him many notes and remembrances of important matters concerning Scotland, which cannot be completed by any one but by himself. But during the last six years he has been so hindered and *riotted* at law by the Archbishop of Canterbury, that he has not been able to attend to the same, and he prays that the king may give order thereupon. The concluding portion of this petition rather tends to the supposition that Master John thought he had a better chance of succeeding in defeating the archbishop by the king's intervention, than by the justice of his own cause."—Documents and Records, Introd., pp. lvi. lvii.

May it not also tend to the supposition that Master John had it in his power to do service in his way of recording the transactions, and that it would be good policy to treat him well?

truth is to be found somewhere behind, and that the abundance of punctilious record is devised to conceal it.[1]

All preliminary questions being thus cleared off, King Edward announced that he found his title undisputed, and intended immediately to proceed to business. Robert Bruce was then called on to state before the assembly whether he intended to prosecute his claim to the crown of Scotland in the court of King Edward, the lord superior. The record makes him

[1] For this important contribution to history we are indebted to the version of the Great Roll in the Chronicles of St Albans, elsewhere noticed more at length. The restored passage speaks for its own authenticity by filling an obvious blank. In the Great Roll as it stands in the Fœdera, a reference is made to the Prelates, the Nobles, and the Community; but at the point where the result of the reference has to be recorded, it is only set forth that the Prelates and Nobles made no answer; nothing is said of the Community. As the passage stands in the Fœdera, it is—

"Et nihil omnino contra præmissa per episcopos, prælatos, comites, barones, magnates, et nobiles præfati regni Scotiæ proposito exhibito vel ostenso . . . Propter quod vobis episcopis prælatis," &c. To these he intimates that, nothing having been brought up to impugn his right of superiority, he intends forthwith to do his duty as lord superior. The suppressed passage, which lies between the words *ostenso* and *propter*, is as follows:—

"Licet in dicto termino assignato nomine communitatis sæpedicti regni Scotiæ aliqualis fuisset in scriptis data responsio; nihil tamen eficax fuit per communitatem eandem propositum, exhibitum, seu ostensum, quoad rationes et documenta memorati domini nostri regis quod ad jus superioritatis, seu directi dominii, executionis, seu exercitii, dicti juris, quod in præjudicio regno Scotiæ sibi competit infirmet aliquatenus vel enervet." —P. 244.

It is elsewhere mentioned that this representation on the part of the Community which contained *nihil eficax* was put in French—a practice unusual in Scotland, though, as we have seen, it had been previously adopted in courtesy to King Edward. It is very significant that, on later occasions, when the silence of the parties interested is referred to as vindicating Edward's assumption, it is not stated that the Community were consulted—only the Prelates and Lords. This kept out of view a party to his transactions with whom King Edward was not inclined to deal, and removed the inconsistency in the Great Roll, where the question is put to three parties, and the result recorded as to two only.

state, with all the redundance peculiar to the whole proceeding, that there, in presence of the prelates, nobles, and community, he finally and expressly acknowledges Edward, King of England, as Lord Superior of Scotland, and publicly agrees to plead his cause before such his superior, and abide by his decision.[1]

Florence, Count of Holland, follows, and after him Sir John de Hastings, both repeating the same form,

[1] It may serve as an instance showing how little one can trust the chroniclers in matters long before their own day, to find the equivalent for this transaction in the chronicle of Andrew Wyntoun, written about a hundred years after the event:—

"To Robert the Brows sayd he:
'Gyve thou will hald in chef of me
For evyr mare, and thi ofspryng,
I sall do swa—thou sall be kyng.'
'Schyre,' sayd he, 'sa God me save
The kynryk yharne I noucht til have,
But gyf it fal of rycht to me,
And gyve God will thet it swa be,
I sal als froly in all thyng
Hald it as afferis a kyng,
Or as my Eldrys be-for me
Held it in freast Reawtè.'
Wyth this Robert past his way."
—Wyntoun, ii. 19.

In the Scotichronicon (xi. 10) it stands thus: "Cui simpliciter respondit Robertus et dixit, Si prædictum regnum per viam juris et fidelem assisam adipisci valeam, bene quidem; sin autem, nunquam in servitutem redigam acquirendo mihi regnum præfatum, quod omnes reges ejusdem, cum magno tædio et labore, sine servitute, sub firma libertate hocusque servaverunt et tenuerunt;" and so in the other chronicles and the histories founded on them.

Such absolute inversion of fact is frequent at the period, and comes of a very obvious source. The name of Bruce became eminently popular in Scotland, and it became something more than a fashion to say and to think everything good of it. There are, in fact, two great elements of disturbance of the truth in the history of this period: the one arises out of the national quarrel, in which English and Scotch writers each took the part of his country; the other comes of the division at home between the two parties—Bruce's and Baliol's. Bruce's party have the last word in the dispute, and far the stronger part in it, since their hero and his country were victorious together before the Scottish chroniclers began their work.

which was doubtless accepted by the others, although the notary seems to have contented himself with transcribing it three times over.[1] Then follow Patric de Dunbar Earl of March, William de Ros, William de Vesci, Robert de Pinkeny, and Nicholas de Soulis. We are next told that John de Baliol, coming afterwards, put in his claim, which was admitted on the usual condition, and he is followed by John Comyn, Lord of Badenoch, who also is spoken of as a late arrival. These two appear not to have been present at the previous proceedings.

Here then were ten competitors for the succession to the crown of Scotland, who all accepted Edward as the Lord Superior of Scotland without hesitation. They had no doubt been dealt with beforehand, and knew exactly what they had to do. A great deal of eloquence has been wasted on these men as the base betrayers of the independence and liberties of their country, but if we look at the surrounding conditions, nothing can be more natural than their conduct. To Scotland they were aliens, and they belonged to a class of aliens peculiarly offensive to the people, of whose evil wishes regarding them they were well aware. That

[1] The form was probably carefully prepared by a person learned in Norman feudality, which was then more than three hundred years old, and had reached its prime. It is as follows :—

"Ad quæ dictus dominus Robertus de Brus finaliter et expresse, coram Episcopis, Prælatis, Comitibus, Baronibus, Magnatibus, et Communitate, prædictis, et nullo contradicente vel reclamante, respondit, quod dictum dominum Edwardum, Regem Angliæ, in superiorem, seu directum, dominum regni Scotiæ publice recognoscit ; et aperte concedit stare juri coram eo super jure successionis, quod sibi ad præfatum regnum Scotiæ competit quoquo modo ; et etiam, ad petendum, respondendum, et recipiendum, ab eo, et coram eo, sicut a superiore et directo domino regni Scotiæ, ut præmittitur, complementum justitiæ in hac parte."—Rishanger, p. 246.

some of them held great estates in Scotland is true, but they would gladly have exchanged their holdings for equivalents elsewhere. In dramatic history, the policy of some of them can, by a little colouring, be rendered unchivalrous, if not base. They appeal to Scotland as ambitious of reigning over an independent kingdom—they offer that independence to King Edward as a consideration for the employment of his influence in their favour. No doubt they dared not, in Scotland, hint anything about vassalage to England. Whatever may have been privately known or hinted among those who could be trusted, such a condition could never take practical shape in dealings with the Scots Estates. To have any chance with them, the Norman courtier must make himself, as nearly as he could, a patriotic Scotsman. To Bruce, Baliol, and Comyn—the three who had a strong Scots connection, and large estates in the country—serious and critical considerations must have thus opened. It is probable that none of them felt assured at first that King Edward would take the matter in hand, and that each looked solely to his territorial power in Scotland, with assistance from his English estates.

The whole face of things was changed to them when it was seen that Edward was in earnest, and determined to fight for ascendancy in Scotland. In the instance of any one of them resistance was utter folly. With no real hold in Scotland, he could only forfeit his English estates, if no worse came of his opposition. Then they belonged to the English court, and looked to the English king as the fountain of promotion. It was only natural, then, that they should frankly agree to his terms, and accept his decision on their claims.

Each of them was, of course, sufficiently conscious that an independent sovereignty was a more illustrious position than that of a feudatory; yet it may be questioned whether any one of them would have preferred the position of independent king, over so restless and imperfectly feudalised a state as Scotland, to the function of ruling the country as feudatory of Edward, with the power of England at his back.

This is perhaps a suitable place for a brief note of the nature of the several claims. It is true that two only—those of Bruce and Baliol—came up as of sufficient power to affect the external current of history. But we shall find that the procedure relating to the whole array of claimants, and to the individual position of each, affords curious glimpses into the politics of the age.

It was the obvious policy of the Lord Superior to welcome all comers. None came there who did not acknowledge his title; and every claimant who appeared with a following of supporters made a sensible addition to the number of influential persons who acknowledged and attested his title. The more thickly the suitors crowded to his court, the more their counter-claims entangled the proceedings into complexities that had to be patiently unravelled. The more protracted were the difficulties and doubts which taxed the experience and skill of the sages of the common and civil law, the more fully did the whole process impress on all men's minds the reality of the Lord Superior's title and power. The jealous formalists of feudal procedure were careful at every step to announce the style, title, and functions of the Lord Superior. When a new claimant appeared, the first thing he had to do

was to record his acknowledgment of this great condition; and at every step onwards in the resumption of his pleadings he acknowledged that he spoke to the Lord Superior of the realm of Scotland, and humbly entreated the king in that capacity to do him right. If the long-cherished object of the Norman kings of England was to be accomplished by fastidious adherence to feudal forms, and a patient hearing of the pleadings of all claimants, the Great Roll of Scotland should certainly have brought the question to an end.

It was not among those who were nearest in blood to Alexander III. that the contest ultimately lay. Their descent from the royal house was in all instances tainted with illegitimacy; and that they should have pushed their claims only shows that the Church had not yet absolutely established the rule that from her alone, and her ceremony and sacrament, could come the union capable of transmitting a right of succession to offspring. The nearest was Nicholas de Soulis, descended of the marriage of Marjory, a natural daughter of Alexander II., to Alan the Durward. It has been already noted that Alan drew on himself, even in Alexander III.'s lifetime, a suspicion that by getting his wife legitimated at Rome he might make his family the next in succession to the throne. His descendant pleaded some sort of legitimation, but scarcely obtained a hearing for it. Among others of the same class were the Earl of March, William de Ros, William de Vesci, already mentioned, along with Roger de Mandeville and Patrick Galightly—all these were descendants of illegitimate children of William the Lion. The claim of Robert de Pinkeny was a degree more remote, as he professed descent from the

father of William, Prince Henry, who did not live to be king. Florence, Count of Holland, claimed as the descendant of Ada, the daughter of David and the sister of William the Lion. This claim had to yield to that of the male branch, the descendants of Ada's brother David, the son of William the Lion; but we shall find that the Count of Holland pushed his case eagerly, and that his pleading discloses some very curious incidents of feudal organisation.

The way is now cleared for turning to the claimants among whom the competition actually lay. These were the descendants of David, Earl of Huntingdon, the grandson of King David by his son Prince Henry, and the brother of William the Lion.

We have seen how the earldom of Huntingdon in England was held by the King of Scots. In connection with the Treaty of Falaise, by which King William in his captivity acknowledged the feudal superiority of King Henry, there were several complicated transactions about Huntingdon in the way of forfeiture and restoration; the conclusion of which was that the dignity and estates became vested in David, brother of the King of Scots, and so were ever afterwards disconnected with the crown of Scotland.

Prince David united himself to a powerful English house by marrying Matilda, daughter of Ranulph, Earl of Chester. He went to the Holy Land under the banner of Richard of the Lion's Heart. According to the Chronicles, he took Acre for King Richard, and was afterwards the hero of a whole romance of adventures in shipwreck, captivity, and other perils.[1]

[1] "As the Christian armie laie at siege before the citie of Acres, otherwise called Acon, it chanced that one Oliver, a Scotishman borne, was

Margaret, the eldest daughter of Earl David, became the wife of Allan of Galloway, the representative of that line of half-independent chiefs which had been so sore an interruption to the aggrandising process of the Scots crown. Their daughter, Devergoil, was married to John de Baliol, Lord of Nyvell in Normandy, and of Harcourt and Castle Barnard in England. The great wealth of this house gave solidity to their princely rank; and the traces of its munificence yet remain in

within the towne reteined in service among the Saracens; for being convict of felonie in his native countrie he was banished out of the same, and fled to the Saracens, remaining so long among them, that he had learned their tongue very perfectly, so that as then few knew what countryman he was. It fortuned that this Oliver had one of the gates in keeping, on that side the towne where was but a single wall, without trenches, or anie other fortification. He happened by some good adventure to espie amongst the watch of those that were of the retinue of David, Earl of Huntington, one of his own kinsmen named John Durward, with whom of long time before he had beene most familiarlie acquainted; and incontinentlie he called to the same Durward, desiring under assurance to talke with him. After certeine communication, for that this Oliver had not as yet utterlie in his heart renounced the Christian faith, he appointed with Durward to give entrie at a certeine houre unto Earl David, and to all the Christian armie, upon condition that Earl David would see him restored againe unto his land and heritage in Scotland. The houre set earl David came with a great power of men to the gate before rehersed, where he was suffered to enter according to appointment, and incontinentlie with great noise and clamour brake into the midst of the citie."—Hollinshead, i. 384.

The chronicle goes on to say how, in the tempest which imperilled the return of Richard and his followers in the Mediterranean, Earl David was cast ashore on the coast of Egypt and sold as a slave. There he was bought by certain Venetians, who took him home to their own city, where he was ransomed by English merchants. Before reaching home he was again storm-tossed, and, running for the Firth of Tay, he put in at a place called Alectum, which, in his thankfulness, he changed to Dei Donum, or the gift of God, whence it has ever since been called Dundee. It is to his thankfulness, and the fulfilment of a vow taken in his peril, that the chroniclers attribute his founding the Abbey of Lindores, on the south shore of the Firth of Tay. The scattered ruins show that its buildings were once magnificent.

Baliol College, Oxford, founded by the husband of Allan's daughter. It was his son, and the great-grandson of Earl David, who was now a claimant for the crown.

Devergoil had a sister, Marjory, married to John Comyn, Lord of Badenoch. He also had princely possessions; and his race, of which there were many branches, formed altogether the most powerful baronial family in Scotland. He boasted too, but in a shape that has not distinctly come down to us, of descent from Donald Bain, a son of the gracious Duncan, who for a brief space occupied the throne. Comyn was nominally a claimant for the crown. Had there been a scuffle for the succession his chances of success might have been strong. But in the decorous and precise court of the Lord Superior he could plead nothing to the point but his descent from the granddaughter of Earl David, and this brought him immediately behind Baliol, as the descendant of her elder sister. His claim, then, may be considered among the others taken out of the arena of the contest, and we must go back to Earl David to see where Baliol was to find his real competitor.

His second daughter, Isobel, as we have seen, was married to Robert de Brus, or Bruce, a cadet of Norman family, powerful among the baronial houses of the north of England, where we have met with them fighting against Scotland in the wars about Northumberland. This Robert, in addition to great estates in England, was Lord of Annandale in Scotland, which had been in the family for upwards of a century and a half, as the gift of King David. The competitor for the crown was a son of this marriage, a man advanced

in years, and with a son in middle life, who had enhanced the fortunes and power of the house by marriage with the heiress of Carrick. He pleaded a special title on a transaction some fifty years old, which gave him a sort of parliamentary title—King Alexander II., when childless, having, as he asserted, named him heir to the throne before the assembled magnates and community, who accepted him as the person who was to reign over them if Alexander died childless.[1] The conditions had materially changed, however, since that transaction. He was then the only male descendant of Earl David; now there were several male descendants. The question then swept clear of this old business, and settled on the hereditary claims of the several candidates.[2]

[1] See above, p. 84.

[2] Though there is no better authority for this transaction than the statement of a competitor for the crown, who was not very scrupulous in what he said or did, yet it is natural to the circumstances. Between collaterals equally near in blood—the one female by an elder daughter, the other male, though by a younger—it was conformable with all the practice of European states that the male should have preference. When the question came up, after intermediate events which bid fair to supersede any practical occasion for solving it, the rise of a new generation made it a question between male representatives; and in almost every country in Europe at that time this would have made a serious difference in the elements for decision on the succession, whether that decision was to be made by a feudal lord, or, as it then was in Scotland, by the principal persons and community of the country.

This incidental plea of Bruce's is duly entered in the Great Roll as already cited. It comes out more fully in the papers about the competition for the crown, edited by Sir Francis Palgrave, in his volume of Documents illustrating the History of Scotland. In these documents the affair is twice stated; once when Bruce threatens that, if any step be taken by the guardians inimical to his rights, he intends to throw himself on the protection of the King of England; and again, when King Edward, as Lord Superior, heard him plead his case as a claimant of the crown. Bruce's statement is of a natural occurrence; he maintains that it was acknowledged by Alexander III., and appeals about it to the tes-

Bruce's position was, that he was descended from the younger daughter, but was nearer by a generation than his competitor Baliol, the descendant of the elder daughter. Here, then, lay the great question that was put at issue in the court of the Lord Superior. It is necessary, before going into it, to say that John de Hastings, Lord of Abergaveny, appeared as the descendant of Ada, the third daughter of Earl David. His claim from the beginning lay behind both Baliol's and Bruce's, but we shall find that the pleadings in it afford some instructive matter.

These, which may be called preliminary proceedings,

timony of persons still living. Any record of it might have disappeared in the general loss caused by the confusions of the wars, without supposing that King Edward thought it worth his while to destroy it. Then, when Alexander II. had a son, and that son reigned and had a family likely to continue the succession, the adjustment of the succession among collaterals ceasing to be of moment might naturally enough be permitted to go with the other unimportant matters which dropped out of the National Records.

It is not easy in modern English to convey a notion of the technical formality of these Norman feudal proceedings. The nearest thing to the impression of an actual perusal of them is to be found in the rendering of their meaning by Sir Francis Palgrave, who was a thoroughly congenial spirit, and their true interpreter to the present day. What follows is given as a specimen, being applicable to this stage of the proceedings. Bruce brings up the recognition by Alexander II., and Baliol meets it. Had Sir Francis been a great historical artist, he could not have put the hard formalities of the Lord Superior's court in better antithesis with the momentous interests at issue, and the memorable struggle in preparation, than in speaking of the king, who desired to make a settlement, having died seised of the kingdom in his demesne of fee and right, and that from him the right descended to one Alexander, his son and heir.

"Bruce states, that when Alexander II. proceeded in war against the Islands, he granted and ordained, as he who was best informed concerning his own blood or family, and by assent of the bishops and earls, and of his baronage, that, in the event of his dying without an heir of his body, Sir Robert Bruce, as the nearest of his blood, should be held his

occupied thirteen meetings in the year 1291—the first in May, the last in August. The record notes precisely each day, with the business transacted and the place where the meeting was held. The definition of the place of meeting in each instance is given with the precision acquired by lawyers, who do not profess merely to satisfy those who want to know the fact, but are prepared to baffle the enemy entitled to take advantage of every quibble which he can found on ambiguity or indistinctness. When business goes on in the Castle of Norham, it is within the king's chamber there. When there is an adjournment to the other side of the river,

heir in the kingdom of Scotland: and a writing was made accordingly, and sealed with the seals of the king, the bishops, and the other great lords, and deposited in the treasury. And of this he prays that inquiry may be made by the baronage of the land, for of those who know the fact many are now living.

"The traverse or replication made by Balliol, as entered upon the roll of Norham, and also upon the notarial protocol, seems to show that the petition of Bruce there presented contained some further averments: for, in reciting this instrument, Balliol, after noticing that Bruce had alleged that Alexander II. made the recognition before his barons, proceeds to add, that Bruce also stated that Alexander III. made the same recognition, with the knowledge of Devergoil, the mother of John Balliol, who did not contradict the same. Balliol then proceeds to argue—cautiously adopting the forms of pleading and technical language of the English common law—that such recognition cannot avail, inasmuch as Bruce acknowledges that Alexander II. died seised of the kingdom in his demesne of fee and right, and that from him the right descended to one Alexander as his son and heir, who in like manner died seised thereof; and therefore, by his own acknowledgment, he shows that Alexander II. did not die without heirs of his body. And the right of his kingdom was transmitted by his death to his heir, and thus by the recognition of Alexander II. (if it was made) no right could be acquired. The original replication of Balliol to the first petition of Bruce is extant; it is much damaged, but we can collect that in its general import, the argument was pursued in the same manner as in the replication recorded on the Norham roll."—Palgrave's Documents and Records, Introd., pp. xxiii. xxv.

and to Scotch ground, the place of meeting is not only described as a meadow on the margin of the Tweed, opposite to Norham, but the parish and the diocese are given. Of meetings held in Berwick, one is in the castle, and others are in the church of the Dominican Friars there, described as deserted.

Important business was transacted at the meeting held on the 3d of August. King Edward intimated his desire that the two competitors, Baliol and Bruce, should each choose forty men, while he should choose twenty-four, or a larger number if he thought fit. There is an indefiniteness, very unlike the rest of the record, in the functions of the persons so chosen: they are spoken of as if they were to be mixed up into a common body of referees to consider the whole matter at issue.[1] The arrangement must have seemed not only just but generous, if it was taken up at the time as the English chroniclers speak of it. King Edward was so confident in the goodness of his cause that he left it to be disposed of by one hundred and four arbiters, of whom only twenty-four were named by himself, while eighty represented Scotland. How this anomalous body was worked we shall presently see. The lists of these "arbiters," as they are generally termed, are given in the Great Roll. It may be more instructive to see the part taken by those of them who accepted and acted, than to examine the lists themselves, which may contain the names of men not to be counted on. King

[1] "Qui omnes assignati et nominati, congregati in unum, in loco et termino per prædictum dominum regem statuendis, de jure cujuslibet prædictorum nobilium, jus in successione prædicti regni Scotiæ vendicantium, cognoscant et discutiant, prout rationi et juri visum fuerit magis conveniens."—Fœdera (Record edition), i. 766.

Edward's twenty-four, of course, were his own prelates and great functionaries, with a few of the high nobles. One name on his list is special, and carries an appearance of earnest desire to walk by the law; it is entered as William of Kilkenny, Professor of the Civil or Roman Law.[1]

It will be observed that, while ten claimants have been entered, only two, and those the two on whom the final contest fell, joined in this selection of "arbiters." It was not, however, intended that the others should be put out of court. King Edward did nothing without an object, and an object there must have been in this peculiar arrangement, which discussed a by-question between two claimants, leaving the final issue open to the whole. Perhaps the policy of the arrangement lay in this, that in Bruce and Baliol, and those they might bring with them, the Lord Superior knew whom he had to deal with; among a set of miscellaneous strangers, bringing their friends and supporters into the controversy, he might find troublesome people. Ostensibly there was a vindication of his course in this, that a judgment on the simple question, which of these two had the better title, would clear away a difficulty coming of an unfixed principle of law. It would settle whether the nearer descendant by the younger child, or the more remote descendant by the elder, had the preferable title.

At this meeting the whole body of candidates, who as yet had only generally announced their claims, rendered them in technical form. In the court of the Lord Superior nothing could be admitted as under-

[1] "Willelmus de Kylkenny, Juris Civilis Professor."

stood fact, even in so large a public question as the succession to the crown of Scotland, and each must give the genealogical foundation of his claim. The cases so put in are exquisite pieces of draftsmanship, and might be models for the peerage practitioner or any other genealogical lawyer of the present day. That ancestor in actual possession of the crown to whom the claimant pleads the right of succession is brought distinctly out. His several lines of descendants, both those which have given successors to the crown and those which have not, are discussed successively; and as each is thrown out, the claim goes back again to the common ancestor until all are exhausted—some by the line coming to an end, some by disqualification, until the claimant comes out as the true representative. So, each having in terms of a formula put in his claim, the pleadings and arguments on which each founded in support of his own claim, and in demolition of other claims, come, as we shall see, at a later stage of the proceedings.

From this meeting on the 3d of August 1291 the whole business was adjourned to June 1292.

The Lord Superior had now in his hands what lawyers call a heavy case; and it cannot be denied that under his directions it went through its stages with all deliberation, receiving a due amount of skilled attention—all recorded so fully that we can even now trace in the policy that ruled the whole those aims which extended far beyond the mere decision of a legal or genealogical question. Before following up the history of this great litigation, certain public measures incidental to the adjustment of the right of supremacy may be mentioned.

The government of the country was in the hands of guardians, who had been appointed by the Estates. Edward did not wrest their authority from them, but, as Lord Superior, he renewed their appointment as guardians, adding Brian Fitz Allan to their number. He appointed the Bishop of Caithness to be Lord Chancellor of Scotland, with a certain Walter de Amundesham as his colleague in the capacity of Keeper of the Seal. The old seal of Scotland was broken into four pieces, and a new seal was made adapted to the change of conditions. He took the oath of allegiance from all the Scots in attendance; but who these may have been, other than the supporters of the candidates, with some of whom we may hereafter meet, it is hard to tell. He issued an intimation to his Chief Justice of England, that as the two countries were now, by the blessing of God, united, his writs should henceforth be current in Scotland as well as England.

The Lord Superior made an early demand that the guardians should give up the national fortresses to him. This was conceded as a matter of course. We have the orders by which he called upon each governor to give up his charge, and these orders court criticism. In the preamble he does not make display of his office of Lord Superior as in the documents which were not to go to Scotland. He is Edward, King of England, Lord of Ireland, and Duke of Guienne; and he demands delivery of the fortress by assent of the guardians and of the several candidates, and only towards the conclusion does he briefly bring in his title of "Soveryn Seygnur."[1] The names of the superseded governors have a sound as Norman as the names of their succes-

[1] Rot. Scot., i. 1.

sors; yet it is difficult to interpret the race or nation from such a sound, since the Norman manner of naming was the court style, and was imitated by all who claimed high rank. One governor, with a thoroughly Norman title, distinguished himself by a fastidious sense of military honour. Gilbert d'Umfravile, Earl of Angus, in command of the fortresses of Forfar and Dundee, said he had received his command from the Estates of the realm, and demurred to render it up to any other authority. King Edward humoured him by a solemn grant of indemnity for any consequences to be incurred by obedience to his command.[1] The guardians were commissioned throughout Scotland to exact the oath of allegiance to the Lord Superior. The instruction was general to require it from those who ought to render it, with special directions for the treatment of each case. Those who should come and swear were of course in their duty, but those who, coming, refused to swear, were to be apprehended; of those who did not come but excused themselves, the excuses were to be heard; and lastly, they who neither came nor proferred excuses were to be coerced. This swearing-in was to last for fifteen days, beginning on the 23d of July, and certain central stations were fixed where attendance should be given to put the oath.[2] How far effect was given to this order must have depended on many local contingencies.[3] On the whole, the public measures taken by Edward during the progress of the great cause have a moderate tone—a tone as if he

[1] Fœdera (Record edition), i. 756.

[2] One of these is Inverness, which the foreign notary calls Inthernez.

[3] Some of the homages so received are to be found in the Ragman Rolls.

restrained himself from too suddenly breaking in upon the established order of things with his new title and its prerogatives; and in this specialty all the documents passing into Scotland have a very significant difference of style from those peculiar to his transaction with the claimants of the succession.

Among King Edward's doings before the meetings about the succession were resumed, there was one which probably drew little notice after it at the time. It became notorious enough in after-times, and has a conspicuous place in various narratives, where the shape it takes is, that Edward removed the ancient records of the kingdom of Scotland, carefully searching out all those which proclaimed the national independence and the supreme sovereignty of the crown. On the 12th of August he issued a commission to certain persons—John de Lithegreynes, William of Lincoln, and Thomas of Fisheeburn—to examine all kinds of documents in the Castle of Edinburgh, or elsewhere in Scotland, which might be found to bear on the succession to the crown or on his own rights in reference to Scotland. As the persons who were to give access to the documents, the writ was addressed to Ralph Basset of Drayton, the Governor of the Castle of Edinburgh, who had just been appointed by Edward, to the Bishop of St Andrews, and to William of Dumfries, Keeper of the Rolls. There is a precept to the Chancellor of Scotland to pay the reasonable expenses of these commissioners, as being occupied in a matter peculiarly concerning Scotland; and their proceedings regarding the records passing through their hands are registered with thorough Norman precision. We have a minute of the depositing of a portion of these docu-

ments in the treasury of the Castle of Berwick, in which are set forth with all precision the names and titles of the eminent persons present on the occasion, the locking up and sealing of the box in which the documents were deposited, and an inventory of the documents themselves. There is another list of documents authenticated as having been given over by King Edward to John, King of Scotland, best known as John Baliol.

There seems no occasion for questioning the accuracy of these minutes and lists, or for supposing that Edward found anything so emphatically proclaiming the independence of Scotland that it would be his interest to suppress it. The records of a self-governing state do not set forth that it is independent of any other—such a declaration would only lead to a suspicion that it was not quite true. The only document in which the tenor of history would lead us to expect to find a specific declaration of the independence of the crown, is the revocation by King Richard of the admission of vassalage, extracted from King William when a captive at Falaise; and this document is not only fairly titled in the inventory so as to show its tenor, but has been carefully preserved to our own day so as to be published in the great collection of early English diplomacy.[1] As to the other documents entered in the inventories, but not now to be found, the preservation of the old records of England has not been so well

[1] The careful commissioners notice the defective condition of the seal, as if to save themselves from any reflections on the matter :—

"Litera Richardi Regis, promissoria Regi Scotiæ quod restituet ei omnia jura sua. *Sed vix apparet sigillum.*

"Charta ejusdem Richardi Regis de restitutione jurium et castrorum libertatum et literarum Regis Scotiæ."

cared for that Scotland can complain of more than her share in the losses of a common negligence.

On the other hand, if we are to suppose that Scotland possessed a series of royal and parliamentary records, extending back through hundreds of years, and that it was the interest of King Edward to suppress such a memorial of ancient self-government and independent sovereignty, we shall suppose something extremely improbable. Some collections of old laws certainly were lost, and their loss is to be regretted.[1] In general, however, we may believe that the records followed the introduction of the Normans and their practices into Scotland, and that they were a humble imitation of what had been going on in England since the Conquest.

Such of the documents as may be counted state papers, affecting the interests both of England and Scotland, bear chiefly on the Scots claims upon Northumberland, and the negotiations with the discontented barons of England. Others there are which might have thrown desirable light on the feudal formalities by which the King of Scots endeavoured to stretch his authority over Galloway, the Isles, and the other outlying territories. But the bulk of the instruction would have lain in papers revealing the practice of the tenure of property and the administration of justice through charters, inquests, assizes, and other records, many of them

[1] For instance: Unus Rotulus de Antiquis Statutis Regni Scociæ. Unus Rotulus de Statutis Regis Malcolmi et Regis Davidis. Duo Rotuli de Legibus et Assisis Regni Scotiæ, et de Legibus et Consuetudinibus Burgorum Scociæ et de quibusdam Statutis editis per Reges Scociæ. Though we have in some shape much of the substance of these burgher laws (see chap. xvii.), it would have been of moment to possess so early a version of them.

referring to merely private and local affairs. Of one thing we may feel assured, that nowhere did King Edward find any writings to help him in his claim of feudal superiority; if he had found any, they would have doubtless been heard of.[1]

King Edward sought assistance from records in another quarter, but not with much more success. The chronicles of events preserved in the ecclesiastical establishments have been often referred to in these pages. Naturally they chiefly abounded in the houses of the regulars, who had the more leisure and quietness for such work; but they were also kept in the chapters of cathedrals, and other ecclesiastical colleges. King Edward made a contribution to this class of muniments, by sending for preservation to several religious houses the proceedings relating to the succession to the crown of Scotland, as held in his own court as Lord Superior. Before doing so, however, he drew on these establishments for such assistance as their past records could give him. There are writs issued by him ordering returns, in some instances, of all that their registers or chronicles tell about the relations between England and Scotland — in others, of any information so afforded concerning homage by the King of Scotland to the King of England. Many of the returns made in answer to this requisition have been preserved. So far as the extracts they give from the chronicles belong to true history, it would be a vain repetition to give them here, because, so far as the author accepts them as

[1] The commissioners' inventories, &c., above referred to are to be found partly in the Fœdera and the Rotuli Scotiæ, and in Robertson's Introduction to the Index to the Charters (1798). The most authentic rendering of them, however, is in the "Instrumenta et Acta de Munimentis Regni Scociæ," in the first volume of the Statutes.

true, they have found their share in the preceding pages. Out of the matter contained in these returns, and the chronicles of England at large, a case was made out for the superiority of the King of England over Scotland, which can best be told afterwards in an account of the historical narrative in which King Edward brought the question under the consideration of the Papal Court.

CHAPTER XIX.

Adjustment of the Succession.

THE ASSEMBLAGE RESUMED—A NEW CLAIMANT: ERIC OF NORWAY—THE QUESTION LYING BETWEEN BALIOL AND BRUCE, AND BETWEEN THE DISTANT DESCENDANT OF THE ELDER, AND THE IMMEDIATE DESCENDANT OF THE YOUNGER DAUGHTER—INDICATION OF A LEANING TO THE FORMER VIEW—CONTINUED PLEADINGS—RESOLUTION OF THE QUESTION INTO THE SHAPE OF LITIGATION FOR AN ESTATE—THIS ENCOURAGED BY EDWARD AS LORD SUPERIOR—THE COMPETITORS ADMIT ALL HIS CLAIMS, AND ARE READY TO DO HOMAGE—QUESTIONS OF PARTITION AND COMPROMISE OPENED AND PLEADED—PECULIAR CASE PUT IN FOR THE COUNT OF HOLLAND—THE JUDGMENT IN FAVOUR OF BALIOL—CEREMONIES OF HOMAGE—CEREMONIES OF INVESTITURE IN SCOTLAND—HIS UNPOPULARITY AND DANGER—QUESTION HOW FAR PUT UNDER RESTRAINT—LITIGATIONS APPEALED FROM HIM TO THE ENGLISH COURT—HIS HUMILIATION—A CRISIS.

ADJOURNED as we have seen from August 1291, the great business of the adjustment of the succession was resumed in the beginning of June 1292.[1] A new claim was then given in, which surely must have disturbed the gravity even of the decorous court of the Lord

[1] In the Fœdera the resumption is dated on 1st June, while the adjournment is to 2d June. Sir Francis Palgrave shows that this is the correct date. The 1st of June in that year was Trinity Sunday, and this was doubtless foreseen in fixing the adjournment (Documents, Introduction, liii.) So much for the precision of Norman recorders and of editors like-minded.

Superior. It was rendered by Eric, King of Norway, the son-in-law of Alexander III., and the father of the young queen who had died on her way home. He offers no explanation of any special Norse or other custom of descent on which he founds, but simply asks the Lord Superior to award to him his daughter's kingdom, devolving on him by hereditary right.[1] Probably, hearing that suitors were welcome, he thought he might as well take his chance with the rest; unless, indeed, his object was to call attention to a secondary and more hopeful claim; this was for arrears of rents or revenues—what English lawyers call mesne profits. These he demanded for the four years since the death of King Alexander, on the double ground that he was executor to his daughter, and had been put to many charges and expenses concerning her. In addition to this, he rendered in the body of his claim an account for arrears of his wife's dowry. Whatever he may have made of the pecuniary matters, his claim to the crown was not pressed, and judgment went against him by default.

The auditors or arbiters—the eighty of Scotland and twenty-four of England—make their appearance at this meeting in a shape which has puzzled historians, and is not consistent with the place they were allowed afterwards to hold. On the face of the record in the Great Roll, it would appear that the king put it to the eighty from Scotland, and to them alone, to inform him on what law and customs judg-

[1] "Ipsum regnum per mortem dominæ Margaritæ filiæ nostræ, olim dominæ et reginæ regni Scotiæ, sit ad nos pleno jure hereditario legitime devolutum." He makes his claim through "veros et legitimos attornatos et procuratores et nuncios speciales, nobilem virum Advenum de Hagr, et Magistrum Hugutio Plebenum plebis," &c.

ment should be given.[1] The answer was one of utter confusion. From disputes among themselves, and the vast importance of the cause, they were unable to answer without more counsel and deliberation.[2]

They sought assistance from the twenty-four of England, but these, for some undiscoverable reason, were equally reticent, and would not commit themselves. The king then adjourned the meeting to the 10th of October, announcing that he would in the mean time push inquiries all over the world to get light for his guidance on this vexed question. We can only see in all this that there is something behind it which the record is intended rather to conceal than to explain.

When the proceedings are resumed at the adjourned meeting, the Great Roll of Scotland would leave us no better acquainted with the actual share taken in the discussion by the auditors; but we have information elsewhere of what they actually did.

It was still the policy of the Lord Superior to exhaust, in the special competition between Baliol and Bruce, the question between the nearer descendant by the younger daughter, and the more remote by the elder, before entering on the claims at large. And the first question was, By what law should the question be tried? By the Imperial, meaning the civil or Roman law, or by the laws and customs of England or Scotland?[3] We

[1] "Per quas leges et consuetudines sit ad judicium procedendum?"

[2] "Qui inter se super hoc diligentem habentes tractatum, concorditer responderunt, quod propter aliquas discordias adhuc inter eos existentes super legibus et consuetudinibus regni Scotiæ, quoad casum tam arduum, et retroactis temporibus inauditum, eidem domino regi consulere non audebant in facto prædicto, absque majori consilio et deliberatione pleniori."

[3] "An per leges Imperiales seu per leges et consuetudines regni Angliæ vel regni Scotiæ?"

shall now see how the scheme of the hundred and four arbiters was worked. King Edward put the question to his own twenty-four, not collectively, but personally, in succession, as the votes are taken when the House of Lords sits as a criminal court, presided over by the Lord High Steward. None would admit the imperial law—any reference to that system always enraged the friends of the common law in England—and those who might feel otherwise felt it prudent to keep their views out of sight. Most of the referees were quite clear that in an English court they could proceed by no other than English law; and a few sought refuge in the unmeaning compromise, that the law, both of England and Scotland, should rule wherever these agreed with each other. The next question was, Whether there was any specialty in the rank or dignity of this kingdom of Scotland that should exempt it from being adjudicated upon like the other tenures of the realm? and all answered that there was not. On these two questions King Edward's own council of twenty-four were alone consulted. "Those of Scotland," as the persons selected by Bruce and Baliol were termed, had no opportunity of recording their opinion on these, which of all the questions put were the most eminently national in their character. Yet it was so managed that they too should appear to have had a voice. It was put to the claimants, Baliol and Bruce, and to the eighty of Scotland selected by them, whether they could show any cause why the kingdom of Scotland—a fief of the King of England—should be treated differently from earldoms, baronies, and other tenures. Under nice distinctions in the ways of putting the questions, the broad fact can be distinctly traced that the twenty-four

of England were advisers or referees of the supreme judge, Edward himself, as to the judgment to be given, while the eighty of Scotland were merely the advisers of the two claimants as to the position they should take up as litigants—what they should admit, and what they should dispute. Accordingly the eighty are not heard in answer to the questions put; the competitors, Baliol and Bruce, give the answers. These are not very emphatic, but import generally the readiness of both to submit to such decision as their Lord Superior may adopt, one point only being urged with some emphasis—that the kingdom of Scotland cannot be partitioned among several heirs like a private estate.

Having thus in a manner felt the way towards finding a principle, by deciding what law it was to be sought for in, matters were ripe for fixing the principle itself; and the next question was, Whether the nearer descendant of the younger daughter, or the more remote descendant of the elder daughter, should be preferred? The answer, very neatly and distinctly put, was, that the progeny of the elder must be exhausted before that of the younger had any claim. This, as a necessary condition of a pure law of hereditary succession, rules to this day; and it is likely that the deliberations of the august body who assisted the Lord Superior did much to clear up the rules of succession as an exact science. On the political bearing of the decision, however, the important specialty is that, as in the preliminary question, the English assessors only were consulted.

Taking the principle so established for his rule, King Edward then decided that, as between the two, and as the pleadings stood, John de Baliol had a preferable title to Robert de Bruce. It was then put to the

eighty of Scotland if they had anything to say against this judgment. The forty selected by Baliol, when asked one by one, of course assented to it. When it came to the turn of those selected by Bruce, the first on the list—the Bishop of Glasgow—made some faint demur; he was in favour of the claims of Bruce, yet, in the shape in which it stood, he had nothing to say against the judgment; and the rest followed him in assenting. In fact, the decision did not put Bruce out of court or find for Baliol, since all parties were yet to be heard before a final decision.[1] What afterwards occurred may account for Bruce's acquiescence in the interim decision—he had more to hope for in pleading his cause before the Lord Superior than in contradicting him. The material feature in this discussion is, that while it went forth that the question of the succession was remitted to a hundred and four arbiters, eighty of them being of Scotland and twenty-four of England, the eighty of Scotland were allowed no opportunity of giving either a judgment or an opinion on any of the great questions brought to a decision.

Let us now look to the pleadings so far as they have come down to us, and try what instruction may be found in them. They are not to be confounded with the genealogical statements in which the competitors set forth their claims. These are precise and formal, while the pleadings in which each claimant supports

[1] "Quod secundum petitiones et rationes ex utraque parte Roberti et Johannis monstratis, quas idem rex coram se et consilio suo cum magna diligentia inspici et examinari fecit, Robertus de Brus non habuit jus in sua petitione ad regnum Scotiæ secundum formam et modum petitionis suæ. Et similiter dictum fuit dicto Johanni de Balliolo per prædictum dominum regem, quod quoad petitionem suam, idem dominus rex non potest ei respondere ad plenum, quousque alii petentes jus ad regnum prædictum Scotiæ, coram eo in curia sua fuerunt exauditi."

his own case to the prejudice of the others are argumentative and discursive.

By far the most illustrious of these competitors—taking them by the estimate of the prevailing court politics of the day—was Florence, Count of Holland. He was the son of that William of Holland who is in the roll of the emperors, though his empire was short and uneasy. The emperor's wife was a Guelf, and otherwise he was connected with those houses which professed to derive their origin from a Roman stock, and looked on the Norman claimants — and their master, the Plantagenet himself—as modern upstarts, the representatives of successful Norse pirates. The connection of Florence with the Scottish royal family differed from that of every one of the other claimants. Ada, a daughter of Henry the son of King David, and consequently a sister of William the Lion, was married to a previous Florence, Count of Holland. Their great-grandson was William the Emperor, the father of Florence, the claimant.

The law of primogeniture had become so far distinct that the descendant of a sister of King William must yield to the claims of his own descendants, unless there were some specialty for excluding them, and the Count of Holland would leave the stage on the mere announcement of his claim, were it not that he attempted to found on some such specialties.

These are curious as exemplifying feudal usages, and they are in themselves peculiar enough materially to vary the monotony of the other claims.

He maintained that Earl David had committed felony, and that his descendants could not succeed to any right through him, being tainted by that remorse-

less ban of the English law—corruption of blood. As it was put in the pleading by J. de Wossemarmut, the attorney for the Count: "The before-named John de Balliol, Robert de Brus, and John de Hastings can demand no right to the realm of Scotland through the before-named David, for this same David was a felon, as in respect of homicides, robberies, and arsons of towns and houses: and with banner displayed evilly and disloyally, the castles of his lord the King of England besieged, took, and levelled." The pleadings that have come down to us give no further clue to the occasion of these hostile acts by the Earl David against the King of England; and from the tenor of history we must infer that David's felony was his fighting against England under his brother, William the Lion, before the Treaty of Falaise. But, for a reason shortly to appear, something more was necessary to open to the Count of Holland a title to that which could not go to Earl David's representatives. He entered this additional plea: Earl David had solemnly renounced his right of succession to the crown—had renounced it into the hands of his brother King William, in presence of the assembled Estates, and had seen it transferred to his sister Ada, the ancestress of the Earl of Holland. The feudal system discountenanced gratuitous renunciations. Its principle throughout was a doctrine of equivalents, and that any owner of a possession or prerogative had simply given it away, was a point not to be easily made out to the prejudice of his heirs. In this transaction, however, there was an equivalent. In consideration of the chances abandoned for him and his, he received an estate in possession, which was yet enjoyed by the descendants of Earl

David's three daughters—Baliol, Bruce, and Hastings. This estate the foreign attorney for the Earl of Holland calls Gharirache; it may now be identified as the district of the Garioch in Aberdeenshire, which is known to have been a domain belonging to Earl David's descendants.[1]

Among many arguments stated against this plea, one does credit to the forensic subtlety of the day: the Count refuted his case by the mere statement of it. His ancestress Ada could only have right of succession as the sister of Earl David, and if he was a felon, his felony excluded his sister as well as his children. Then if Earl David sold his birthright for this estate in Aberdeenshire, he sold what had already gone from him, and whoever might profit by the felony, the Count of Holland precluded himself from pleading it. To

[1] The Garioch, pronounced Gary, is valued by agriculturists, but is otherwise one of the most unnoticeable of rural districts, as it is not near any considerable town, and is neither pierced by any of the great thoroughfares between north and south, nor included in any of the stated touring districts. And yet it has mysteries in its history besides that disclosed by the Count of Holland. If not strictly within the bounds of the Garioch, yet in the domains of Earl David's descendants which comprised it, are the remains of the Castle of Kildrummy. It seems to have approached more closely than any other stronghold in Scotland to the size and general character of the great royal castles of England. It is in the pointed style, which succeeded the Norman and is sometimes called the Edwardian. It is of the date of the great contest, in which we shall find it figuring; but whether built by the Bruces or by the authority of the conquering King of England there appears to be no clue to decide.

Further, Kildrummy is the territory dealt with in a document which, if it be genuine, is the most ancient and interesting remnant of feudal practice in Scotland. It is a charter by King William the Lion, dated in 1171, and invests Morgund, the son of Gilocher, in his father's earldom of Mar. These seem Celtic names—they are, at all events, different from the Norman names so prevalent in early writs. The most remarkable feature of the document is, that it seems to have been sanctioned by something like a parliament. "Jus suum inquisivi per multos viros

this it was rejoined that the transaction occurred before the felony, and hence the reason for pleading it.

The Count had still farther and equally remarkable matter to state. He said the settlement of the crown on Ada and her descendants was adjusted in something very like a full parliament. "The said King William caused to be assembled all his baronage of Scotland, as well of bishops, abbots, and priors, as earls, barons, and other substantial men of the land. . . . And these the said king ordained, provided, and established that, if he should die without heir of his body begotten, or if the heirs from him issuing should decease without heirs from them issuing, then they should hold Ada, his sister, as their lady, if she should be living, and if she should be dead, the heirs from her issuing." Thereafter the magnates assembled did homage, and swore fealty to Ada accordingly.

fide dignos, videlicit per barones et thanos regni mei, per quam inquisitionem inveni dictum Margundum filium et heredem legitimum dicti Gillocheri comitis de Marre." This document is preserved by Selden, who says: "I have it written in parchment, in a hand of the time, but without any seal to it."—Titles of Honour, ii. 7. The strict archæology of the day looks askance on documents which, like this, are rather too complete, and the affair has fairly puzzled the adepts. "Seldon's authority is not lightly to be rejected; and some of the reasons against the genuineness of this charter, urged by the late Mr Chalmers in a paper in the Archæologia, founded on the spelling, &c., are of no weight. But it is open to serious objections, whether we consider the narrative, or the occasion and the time and place of its granting, and the manner of testing. For instance, it is almost certain that in 1171 there was no war with England [the charter alludes to "Guerra inter me et Anglicos"]; on the other hand, it is difficult to divine a motive for inventing such a document. If it should be considered a very early forgery, it is scarcely less important than if admitted to be genuine."—Preface to Acts, p. 13. See, too, 'Antiquities of the Shires of Aberdeen and Banff,' iv. 147. If the arrangement founded on by the Count of Holland occurred before Earl David's felony in 1174, there was little time for the domain to go through its changes—a reversion to the crown, and a regifting.

Baliol and Hastings of course denied this transaction; but, providing, as litigants well advised do, for its possibly being true, they said it went for nothing—it was a mere intimation to the tenants on the domain. If William had no power in his own person to alter the succession, these tenants on the domain could not give him such a power. So is met the only reference in the pleadings to the rights of the people of Scotland or of their representatives.

The pleadings of the illustrious competitors are not exempt from the prevailing suspicion that attaches to the statements of litigants generally. Almost every litigant exaggerates his case, and even as to the facts, if they are very telling and are ill-supported, it is necessary often to be sceptical. Most people will, perhaps, doubt the Earl of Holland's story, but some also have doubted, though with less provocation, whether Bruce adhered to truth in maintaining as he did that Alexander II., when afraid of dying childless, named him as his heir, and had the nomination confirmed by Parliament. Upon this strong plea Baliol retaliated by charging Bruce with treason against the queen, in that he had taken up arms against her, and actually besieged and taken the Castle of Dumfries.

Bruce could refer to instances of collateral succession, the latest and most distinct being that of Donald Bane; but here his adversary had a story to give which would be very likely to tell with the Lord Superior. No doubt Donald Bane did usurp the throne left by his brother Malcolm, but Duncan, the son of Malcolm, went forthwith to William the King of England as Lord Superior of Scotland. On Duncan's death there was a second usurpation by Donald, but again King

William, as Lord Superior, came to the rescue, ejected Donald by force, and placed the rightful heir, Edgar, on the throne; and so had the succession ever since been kept in its proper line under the rule of the Lord Superior.[1]

[1] These pleadings are taken from the fragments printed by Sir Francis Palgrave in his Documents and Records illustrating the History of Scotland, who, conscious that the assertions about the active interposition of William Rufus, as Lord Superior, were falsehoods, makes this apology for the production of them: "Some might be acquainted with the events from written memorials; to others they were known by general tradition or recollection. Baliol quoted them as he understood them, and as they were universally understood in Scotland."—Introduction, lxxxvi.

There is no doubt that in Scotland at that time, reasonably or unreasonably, nothing that might impart any right of interference by the King of England in the affairs of the country was either "understood" or tolerated.

Sir Francis Palgrave, long after the question seemed at rest, came forward as a champion of the feudal right of King Edward to be Lord Superior of Scotland, and as a chider of the disorderly conduct of those who set themselves against it. Sir Francis could never discourse on anything without scattering about morsels of curious knowledge; and his way of dealing with this question is totally different from the old spiteful diatribes, intended to bring humiliation and reproach on fellow-subjects of the empire and revive the flame of dying enmities. Sir Francis had a great historical theory to work out, and he could not help it that King Edward's superiority over Scotland should be necessary to its development—indeed he gave what, according to his own notion, was perhaps ample compensation, in the place which he gave in his theory to Scotland, "that ancient member of the Anglo-Saxon Empire." His notion was that Britain had become an Empire after the Roman model, and that there was ever a Bretwalda or Emperor supreme over all the kings or chiefs from Cornwall to Caithness. In this political articulation a king in Scotland would hold a position like that of an Elector of the Empire.

No doubt the chronicles represent some English kings as supreme over Scotland, just as on the other side they give us Gregory the Great ruling over England, Wales, and Ireland, and Malcolm M'Kenneth adding Norway to the cluster. Perhaps we should go further, and admit that some Saxon kings, like Athelstane, became a terror to the rulers all round, and exacted humiliating admissions from them. Sir Francis is strong on the firmness with which Canute the Dane asserted authority

As the pleadings wear towards a conclusion, they have a tendency to break off from the great national question at issue, into the pressing of secondary personal claims and interests, the discussion of which yet throws some light on the political ideas and feudal notions of the day. As the tendency of the proceedings towards pure primogeniture becomes clear, and the other suitors see that this points to Baliol, they begin to devise plans for a share of the inheritance. Certain feudal estates both in England and Scotland belonged to the crown of Scotland, and these were divisible among heiresses, and should be inherited in shares by the descendants of Earl David's three daughters.

over the King of Scots, but this ought surely to go to the credit of Denmark rather than of England. All such affairs, however, were personal and temporary. It is likely enough that some of these great kings took, as Sir Francis tells us, imperial titles, such as Basileus or Imperator; but no amount of parchment will convince people that there was a duplicate of the Roman Empire in Britain. In fact, we find on occasion one of the Scots kings, Edgar, calling himself Basileus; and Sir Francis, far too chivalrous and confident in his own theories to evade such an incident, infers from it that Edgar must have aspired to the Bretwaldaship or Saxon Empire. And if we could believe in such a thing, it would be almost more difficult to get over the next stage in the demonstration. William of Normandy came over and conquered the territories ruled by Edward the Confessor. But if Edward had known all the prerogatives of his position, he would have been aware that he was an Emperor, and that Scotland was part of his Empire. When the Normans placed themselves on his throne, they after a time discovered this latent right and revived it. This is giving to the conqueror even more than he has conquered. In the common opinion of mankind, where one is taking by the strong hand, another may resist by the strong hand and keep his own. Conquerors of territories have not generally the sympathy of jurists and historical philosophers with them; but they have it always to look to, that where they have conquered there they can rule, despite of theorists. It is a novelty to find the theorist proposing that they should have what they are not able to take—for this is the position of Norman William, if by conquering England, he was entitled to rule over Scotland which he did not conquer.

One of the claimants carried this hint a great way further. Whether it were Baliol, the distant descendant of the elder, or Bruce, the nearer descendant of the younger, who succeeded, John of Hastings, the descendant of the third daughter, must be postponed to either. He therefore pleaded that the estate—namely, the Kingdom of Scotland—should be broken up and divided among the representatives of the heiresses. Bruce had at first contended that Scotland was a sovereignty and indivisible, but he now found it expedient to amend his claim, and put in for his third part of the succession, thus making common cause with Hastings. He was met by an objection not applicable to Hastings—his pleading was inconsistent; for whereas he had founded his original claim on the assertion that Scotland was a sovereignty and indivisible, he now asserted it to be partible, and claimed his share. It would be an utter misunderstanding of the spirit of these pleadings to suppose that Bruce was taunted with this as anything to be ashamed of. His change of position was as natural as the tactic of the litigant, who, having claimed the sum total of a fund, is content in the end to take a dividend of it. Baliol's objection to the entering of such a plea was purely technical; and Bruce held against him that it is every suitor's privilege to put in whatever plea is for his advantage, unless there be an absolute rule of practice against him; and here there could be no such rule, for when he pleaded the indivisibility he was entering a general claim to the sovereignty of Scotland without reference to the claims of others, but now his plea of divisibility was put in by him as a party to a litigation in which Baliol was the one party, and he the other.

The Lord Superior seems to have heard these and other such pleas with patience—indeed to have liked them, for they were gradually breaking down the old historic associations of a separate sovereignty, and preparing for the absorption of Scotland into the realm of England. From this point the pleadings for Baliol are that Scotland, though subject to the superiority of the King of England, yet is a Sovereignty; and he rebuts all comparison between it and several estates referred to as having been divided among heiresses. And here the tone of Baliol's pleading has in it a touch of dignity, as supporting some remnant of separate sovereignty for Scotland, while the others seek to remove the last shred of it. Thus, as showing the separate sovereignty of Scotland, Baliol sets forth that one who had committed felony in England fleeing to Scotland could not be apprehended at the instance of the English authorities; to which Hastings makes answer, that if such things did occur, they were but an abuse.[1]

[1] "John de Baliol maketh answer and says, that it is not alike as to Scotland and the other members of the realm of England; for he says that when a person has committed felony in England, or has forfeited right to live in the realm, for all time it has been the usage that he may come into Scotland, and there abide, and yet he cannot do so in any other of its members. Besides this, John de Baliol says, that whereas John de Hastings says that the King of England is author of his laws, he also says that the King of Scotland is author of his laws, and administers his own peace and his own justice.

"Unto which things John de Hastings maketh answer,—that where John de Baliol alleges a fact, how that felons of England are harboured in Scotland, unto this says John de Hastings, that although John de Baliol alleges this harbouring as the usage in Scotland, he thereby does not prove this deed to be of right, particularly against the chief lord; rather it seems to be a subtraction from his lordship. On another part, John de Hastings says, that such a deed of usage in Scotland, the harbouring of the felon against his lord, the chief lord ought never to admit of, nor for that confirm to his retainer his territory as a kingdom, for

The claims of the heirs parceners, as they have to call themselves, are urged with all the pertinacity natural to litigants fighting for valuable possessions. They go into intricacies of feudal principle, through

that thus he would be affirming the status of royalty by his own divestment of right.

"On another part, John de Hastings says that such a fact occurs repeatedly in the other honours holden of the kings of England, such as in Ireland throughout, and in many places in the March of Wales, that felons are harboured out of the one and of the other; and yet by reason of such harbouring of felons the territories are not kingdoms. And as to what John de Baliol says besides,—that the King of Scotland is author of his own laws, and administers peace and justice; to this maketh answer John de Hastings, and says, that his authority, and his peace, and his justice, are in subjection to the chief lord, just as much as were the laws of the Prince of Wales, and as are the laws of the other members. By reason whereof, he is not of opinion, that by reason of such authority, or by reason of such laws, or by reason of such peace, or by reason of such justice, which here are in subjection to another, he can thence infer, that they make members of the crown appropriate royalty to themselves as of right. And then it appears that there is no resemblance or comparison between the King of England, as regards his kingdom, and the territory of Scotland; for the King of England holds his kingdom only from God, and the kingdom of England never can, by any homage, fall under the tutelage of a chief lord, or be awarded by a chief lord. But the heirs to Scotland ought to hold of the King of England, as of the chief lord, and in thus much is the lord of Scotland his homager, and is not solely under God. And so he is in want of the principal properties of royalty, as is already said, to make his land non-partible, against the common law. . . . .

"To the demand by Sir John de Hastings of the third part of the kingdom of Scotland, because that he springs from the third daughter of David, and the kingdom of Scotland is held of our lord the King of England, and because that there never was a king of Scotland anointed or crowned;—Sir John de Baliol maketh answer, that although the kingdom of Scotland is held of our lord the King of England, nevertheless, before the Incarnation of our Lord, and always since, the land of Scotland has been held as a kingdom by kings who have there governed the realm, and by the Church of Rome have been king named and for king held, as also by all kings of Christendom; and royal dignity had, and justice in their land did unto all who of Scotland were. And besides this, he says that the castles, burghs, or towns of Scotland, do not make the king, nor confer the royal dignity, but it is the royal dignity that

which it would hardly be instructive here to follow them, but it is easy to see that these pleadings must contain a great treasure of thirteenth-century practice for the use of the conveyancer and real property lawyer. What confers a strange interest on the selfish squabble, and the array of technicalities and pleadings called out by it, is that there is no more allusion to the rights of the community of Scotland, or the way in which a decision may affect them, than there need be in any private litigation. They have no more place in

makes the king; castles, towns, and burghs, and all other things which in the said kingdom are, [are] unto this royal dignity appendant; the which dignity is one [and] entire, and the highest lordship in any land where kings do reign. And since that castles, cities, and burghs and towns, [are] annexed to this royal dignity,—without the which things it cannot be maintained,—just as the principal is non-partible, [so is] neither the accessary nor the thing which unto the principal appertains.

"And as to that there is no king anointed or crowned, the said Sir John de Baliol maketh answer,—that the anointing of a king or the crowning of a king is only the sign of a king, what he ought to be. And this appears in every crown of a king, which is round, and so signifies perfection; and the four flowers of the crown, each has a signification in itself: the flower in front signifies justice, the flower behind might; and of the other two flowers, the one signifies temperance, and the other prudence. And so the crown does not make the king, but it is an emblem, as before is said.

"Besides this, he says that there are many kings who are reigning who are not crowned, as the Kings of Spain, the King of Portingale, the King of Saverne, and the King of Vaxen, who hold their kingdom of the King of Almaine, as also the King of Arragon; the which all hold their kingdoms as non-partible. And like as in the time of our lord the King now reigning, the younger brother of the King of Arragon demanded as against the king, his brother, part of the kingdom of Arragon; and because that he would [not] do him the right he demanded, he sent his messengers to the King of France, and to our lord the King of England, and to the King of Spain, and to several other kings, of whom each sent him word by his own messenger, that a kingdom ought not to be divided; and all the kings united, and unto this agreed. Wherefore it seemeth unto him, that this matter ought much to work for him in this case."—Rishanger, pp. 327-330, 339-342.

the question than the tenants on an estate while the settlements are disputed. So far as one can gather from the terms of the documents, it never seems to have occurred to the greedy litigants themselves, or their astute technical advisers, that there was a fierce, self-willed people, nourished in independence and national pride, who must be bent or broken before the subtleties and pedantries of the Lord Superior's court could be of any avail. Totally unconscious they seem also to have been that the intricate technicalities which dealt with a sovereign independent state as a mere piece of property in search of an owner formed an insult never to be forgiven, whatever might be the cost of repudiation and vengeance. We cannot show how far any rumour of the proceedings before the Lord Superior penetrated into Scotland. We can only understand that as yet there was nothing done that could or need be resisted. Action would come when the pressure of Norman rule should tell the people that they had got new masters.

The great cause, as we have seen, began in May 1291; we are now in November 1292. The Lord Superior seems to have felt that the time had come for a conclusion. There is evidence of quick work; all the competitors, save the descendants of Earl David, appear withdrawing their claims as if by a simultaneous vote, though there was doubtless much dealing with them to get them out of the way at the right time. Before judgment, two questions were put to the assemblage, the which, as the Great Roll succinctly tells, brought out answers to the effect that in this question the estate was not divisible, and the descendants of the elder sister must be exhausted before those

of the younger have a title. In the fuller accounts of the affair, however, we find that King Edward got answers to four questions from the eighty of Scotland, though we do not see, as in the earlier stage, in what form they were rendered. The first was, Whether the kingdom was partible? and they answered that it was not.

The second was, Whether the estates belonging to the crown were partible? and the answer was, that if they were within Scotland they were not, if out of Scotland they might be.

The third was, Whether earldoms and baronies were partible in Scotland? and they answered, that earldoms were not, as had been found in the succession to the earldom of Athole, but baronies were understood to be partible.

The fourth question was more general, If the kingdom was not partible, and so should fall to the descendants of the eldest, was it consistent with practice to do something for the younger daughters or their descendants? The answer was, that there had been no opportunity to provide for such a case in the succession to the crown; but in the succession to earldoms it was usual for the eldest, who took the estate, to make some provision for the younger—but this was matter of grace, not of right.

To complete the history of the great cause it is necessary to give these last particulars, because they are contained in documents evidently authentic; but it would be satisfactory to know more than these documents tell of the spirit in which they were put and answered.

On the Monday after the Feast of St Martin, in

November, there was a great assemblage in the Castle of Berwick to hear the Lord Superior's judgment, which, as all by this time must have well known, was in favour of Baliol. It was a correct judgment according to the law of hereditary descent as now established, and probably the full consideration which the case received may have done much to settle the rule of primogeniture for after-times.

There was still business to be done. The new vassal had to do homage, and instructions had to be issued for his investiture in his fief. These operations are almost hidden in a procession of formalities, devised for the purpose of placing the result of the momentous process beyond any possibility of question or cavil. A piece of business had to be adjusted in the winding-up, small in itself, yet holding a significant meaning. The fees to be paid to the Lord Chamberlain for the King of Scotland's homage had to be adjusted. By an ordinance recorded in the Great Roll it was fixed at twenty pound,—the double of an earl's fee. Thus, often as we find mention of a king of Scots doing homage for something or other, there was no precedent for what he must pay in doing homage for the kingdom of Scotland.[1] And this is in harmony with all the proceedings before the Lord Superior. Their character, as ordinary feudal usages turned to the accomplishment of a new object for which there were no set precedents, is sustained throughout.

There was abundance of further technical procedure in the winding-up, but we have now reached the result, and the farther formalities make no part of the story.

[1] "Ratione homagii quod idem rex Scotiæ fecit regi Angliæ pro regno Scotiæ."

It would not be very instructive to recapitulate them; and in fact, as they are all on parchment, an account of them would be about as uninteresting as an abridgment of any set of title-deeds. The tiresome uniformity of the written documents is varied by one small but significant piece of material work. The seal used by the guardians was broken into four pieces, which were put into a leather bag and deposited in the Treasury of England. It is set forth, with the solemnity which attends the whole process, that there were two reasons for this—the one was to obviate questions which might arise about the date or validity of writs, if the seal of the guardians were in existence after the appointment of a King; the other was to provide an additional token or testimony of the establishment of the King of England's feudal superiority over Scotland.[1]

[1] If the Author shall come under the reproach of having gone with tedious minuteness into the particulars and technicalities of this discussion, he has to say that great litigations—*causes célèbres*, as they are called—are admitted to be instructive chapters in the history of human affairs; and it would be difficult to find a more important cause than the one of which the account is just concluded. As to the authorities for this account, the staple is of course the Magnus Rotulus Scotiæ in the Fœdera: this is aided by papers in the Rotuli Scotiæ and in the Ragman Rolls, edited for the Bannatyne Club. A considerable amount of new material is poured in by Sir Francis Palgrave, in his 'Documents and Records illustrating the History of Scotland, and the Transactions between the Crowns of Scotland and England, preserved in the Treasury of Her Majesty's Exchequer.' Of all that has been contributed, to our knowledge, of the affair, however, since the Great Roll was first published by Rymer, by far the most important contribution has just appeared in the third volume of the Chronicles of the Monastery of St Albans, in the Collection of Chronicles and Memorials of Great Britain and Ireland during the Middle Ages, published under the direction of the Master of the Rolls. Like the two previous volumes from the muniments of the same establishment, known as Thomas of Walsingham's History, this volume has been edited by Mr Riley; and all who have occasion to use

For instance, the fact of the doing of homage is very articulately set forth in a notarial instrument duly attested; and then, to give additional strength to this, there is the narrative of onlookers who saw the ceremony, and reported what they saw. The new King of Scotland, King John, has to sign a statement—a sort of affidavit—that he performed his homage for his kingdom of Scotland, and performed it willingly, and in honest faith that it was justly due to the King of England as Lord Superior of Scotland.[1]

it must feel grateful to him, not only for the important documents brought to light by him, but for the assistance afforded by him for fully understanding their import and their connection with what was previously known.

He brings home the collecting of these materials to Walter of Rishanger, a distinguished monk of St Albans. If he is right in this, the documents were preserved by one who was no friend to the Scotch side in the great controversy; for Walter was retained by King Edward to plead his cause against Scotland before the Pope, and we shall have hereafter to come across his handiwork. (See Introduction to the Chronicle of Rishanger, printed by the Camden Society.) Whoever preserved the documents, they are an immense addition to the contents of the Great Roll, and let out many significant particulars not to be found there. Among these is the very notable fact that on the question of homage the community of Scotland spoke out, though not to the purpose, in the Lord Superior's judgment (see p. 208). Many other instructive particulars—including the information, in the last sentence of the text, about the reason for breaking the great seal—are to be found solely in Rishanger's collection. Altogether, it is clear that the pleadings and the miscellaneous documents connected with the great cause must have been very voluminous. A great bundle of the pleadings has come to us from Rishanger, yet they show that there was abundance more. Sir Francis Palgrave gives portions of the pleadings different from those preserved by Rishanger—not inconsistent with them, but belonging to a different stage in the great cause.

[1] The Norman scribe or conveyancer who drafted this document found a difficulty, and was perhaps proud of the way in which he got over it. The practice of authenticating business documents by seal had then taken root in England. It came into Scotland, too, among the Normans, but afterwards dropped out of use, yielding to the simple signature in writing. In England, however, the practice grew and flourished so

The new king now went to Scone to be solemnly inaugurated on the Stone of Destiny, after the manner of the kings of Scotland. He brought with him a document or warrant from his Lord Superior, authorising the ceremony to be performed, and certifying him as the proper person on whom it should be performed. He was enthroned accordingly on the 30th November 1292. There was still a step wanting to satisfy his master. Homage had been taken of him at various stages of the process; it was now desirable that he should render it as an invested king, and he did so accordingly on the 26th of December at Newcastle, where King Edward received him. He was now sent back to his people, as thoroughly complete a vassal king as the technical skill of the Norman jurists could make him; and his was doubtless deemed the lot of a fortunate and happy man. In that brilliant chivalry—that group of gay adventurers who, unburdened by nationality or other serious creeds, were following fortune wherever they could find it—he had drawn the foremost prize going; but it only cast him into a sea of troubles. It was plain from the first that his people would not bear the rule of a servant of Edward.

healthily, that at this day, as many people know, there are several kinds of documents of the most important kind, public and private, which would be utterly worthless without having on them a wafer or a piece of circular paper pasted on to represent the seal of the person who signs. The shape of the seal, however, which was to attest King John of Baliol's affidavit of his homage was a more serious affair. Whether the old seal had been yet broken up or not, it was not a suitable one for the occasion, and there was as yet no new seal with the effigy of King John. The plan adopted, after due consideration, was to use King John's private seal, as Sir Johan de Baliol, and to narrate how, in the emergency, that plan was adopted. "En tesmonie de ceste chose, je ay mis a cest escrit mon seal, que je ay use jesques en cea, pur ceo que je ne avoy uncore autre seal fet desouz title e noun du Roy."—Rishanger, 368.

In the society he had left behind him, no one dared speak of anything but homage and the rights of the Lord Paramount. Among the people now surrounding him these were terms not to be endured, and he was far from his master and protector. He was thwarted in the selection of his officers, and had to struggle with all the difficulties which subordinates can throw in the path of an unwelcome master. He does not seem to have been a man of much ability—indeed, he is liberally termed a fool by friends as well as foes—but his position was one in which courage and ability might have only made mischief. It was said at the time that he was in terror for his safety; and one contemporary writing from the English side compares the poor simpleton to a lamb among wolves.[1]

It happened that individual members of the community, in the ordinary pursuit of their personal aims, were the means of rousing the exasperation of the body at large, by bringing home to them in a palpable shape the national degradation. The rumour had gone forth that the king's courts were no longer supreme—there was an authority above them, which could correct their decisions and remedy their acts of

[1] In the St Albans Annals, attributed to Rishanger, who, for the reasons already mentioned (p. 251), had means of knowing what was going on, there is a lively enough notice of King John's reception: "Scoti autem, volentes nolentes, illum ut regem animo turgenti moleste susceperunt. Illico omnes famulos suos de sua notitia et natione summoverunt, et alios, ignotos sibi, ad sui ministrationem deputarunt. Regium nomen ei ægre imposuerunt, non spontanea voluntate, sed coacti, et regium officium ei penitus abstulerunt, dicentes mutue, 'Nolumus hunc regnare super nos.' Ille autem, simplex et idiota, quasi mutus et elinguis, comperta superstitiosa seditione Scotorum, non aperuit os suum; timuit enim feralem rabiem illius populi, ne eum fame attenuarent, aut carcerali custodia manciparent. Sic degebat inter eos anno integro, quasi agnus inter lupos."—Annales Angliæ et Scotiæ, 371.

injustice. This was glorious news to disappointed litigants. It was desirable, too, that as speedily as possible the Lord Superior should exercise his power as the protector and redresser.

The first to appeal unto Cæsar was Roger Bartholemew, a burgess of Berwick. A certain Marjory Moigne, a widow in Berwick, took proceedings before the Court of the Custodes at Edinburgh on the following statement:—She had lent to William the goldsmith a hundred and eighty pounds sterling, the property of her boys. The goldsmith having died, Roger, as his executor, had taken possession of his estate, but had not repaid the widow. There was a counter-plea that the goldsmith's estate had a claim for the maintenance of the boys, and that to the rest of the fund the widow had helped herself by taking it out of the executor's strong box. On these counter-pleas a litigation was built, the result of which was disastrous to Roger; and it was only in human nature that he should seek a remedy, without being hindered by considerations about the sacrifice of his country's independence.[1] King Edward, at Newcastle, named a council to hear the case. King John protested that there existed a treaty providing that no native of Scotland should be required to plead to any suit, civil or criminal, out of the realm. King Edward said that, supposing there were such an obligation, it could not affect his right to control the judges he had himself appointed; but he was resolved to remove all possibility of mistake, and, speaking fairly out, proclaimed that he was determined

[1] "Placita apud Edenburgh coram custodibus regni Scotie die Jovis in festo S. Luce Evang. Anno Dom. MCC. nonagesimo primo." Under this title the whole case will be found in Ryley's Pleadings in Parliament, p. 146.

to hear all appeals from the country of which he was Lord Superior. Though a thoroughly practical man, not to be turned from his purpose by parchment, it seems to have been felt by Edward as undesirable that there should remain in writing an agreement like the Treaty of Brigham, by which, in many shapes, he had become bound to observe the independence of Scotland, and had especially engaged that no Scotsman could be cited as a litigant into England. Accordingly, he extracted from Baliol a discharge and renunciation of this treaty for himself, his kingdom, his heirs, and every conceivable being supposed to have an interest in its provisions. While they were at such work, Edward's lawyers extended the cancelling to every kind of document known to exist, or afterwards turning up, in which there might be any condition that could by possibility be pleaded against the exercise, in any circumstances, of his sovereign superiority. This discharge, for greater security set forth both in Latin and French, is the last in the Great Roll of Scotland. The elaborateness with which it raises a verbal fortification against every possible argument, plea, or quibble, that might be brought against the claims and acts of the Lord Superior, makes it a curious document; and the study of it might be instructive to a sharp attorney accustomed to prepare obligations for holding people to bargains which they may possibly repudiate as iniquitous.

The pecuniary squabble among the burgess families in Berwick thus expanded into a critical question of national politics. It was followed by another, which, standing alone, would have been of infinitely greater moment, since it concerned rights of succession con-

nected with the earldom of Fife. It involved complex points, both in pedigree and legal formality, grounded on a claim by Macduff, the younger son of the last earl, who, as against his grand-nephew, demanded certain lands which he said his father had given him. The real importance of the case lay in its finding its way to the Estates of Parliament. The sitting began at Scone on the 10th of February 1293. The judgment was against Macduff, who appealed to the Lord Superior. With these two cases in hand, a sort of rule of court was framed for hearing appeals from Scotland. It involved two remarkable conditions—that in such appeals the King of Scotland was to be cited, and must attend as a party; and that the appellant, if successful, should have damages or reparation for the injustice done to him in the court below.[1]

It is easy at this stage to see that, whatever the ultimate views of King Edward may have been, his immediate object was to subject his new vassal to deep humiliation.

On the Macduff case the King of Scots was cited to appear before the high court of the Parliament of England on the day after the Feast of Trinity, in the month of March. He did not appear; he was afraid to set off on such an errand. He was again cited to appear in October. Meanwhile, in August, there was

[1] Among the many pleas for law reform, there have been some which would count this an improvement on existing practice. There are many instances where a litigant gains a victory in one court after another, until he comes to the court of last resort, perhaps the House of Lords. There all the previous decisions are reversed, and the loser, encouraged to go on by one favourable decision after another, finds that he has to pay the costs, not only of the last contest in the court of review, where he was the loser, but of those others where the decision was in his favour.

a meeting of the Estates at Stirling—a meeting which may be called the second Parliament of King John.[1] The business it transacted, so far as we have it on record, related to personal feudal claims. They were of considerable territorial importance. Two of them—the one affecting the domains of the house of Bruce, the other those of the house of Douglas—were appealed to King Edward and his Parliament. It is in the shape taken by the appeals already entered that political importance and historical interest centre.[2] King John obeyed the second summons, going up to England with instructions, whether they were communicated to him by the assembly at Stirling, or otherwise. We see by the record of the proceedings that he was personally present.[3] As the historians of the English Parliament put it: "This King of Scotland was obliged to stand at the bar like a private person, and answer to an accusation brought against him for denying justice."[4] A legislative assembly, whether patrician or democratic, can always be trusted with the execution of an oppressive or insulting policy towards a rival or dependent community; and on this occasion Edward was well served—too well perhaps. The King of Scots was treated throughout as a contumacious litigant, failing in respect to the worshipful court. He stood,

[1] See the proceedings of the two meetings, during John's short reign, in the first volume of the Scots Acts, p. 89 *et seq.*

[2] A good account of the three litigations in which the houses of Macduff, Bruce, and Douglas were interested, is given by Lord Hailes, who seems to have taken a professional interest in them as a genealogical lawyer, Annals, i. 274 *et seq.*

[3] "Placita coram ipso domino rege et consilio suo ad Parliamentum suum post festum S. Michaelis," &c.—Ryley, p. 157.

[4] Parl. Hist., i. 41.

however, to the policy to which he had been driven in Scotland. Acknowledging himself the vassal of the King of England, he said he yet dared not commit himself to the matter in hand, or any other affecting the kingdom of Scotland, without consulting the Estates of the kingdom; and when closer pressed, he repeated the assurance.[1] The court then found the party before them contumacious, and guilty of contempt of an aggravated kind, since it was cast at the sovereign who had conferred on him the dignity and authority he enjoyed. He was not only to be subjected in damages to the appellant, but to a special punishment for contumacy. On a preamble, which seems to say that a delinquent ought to be punished by deprivation of the means of holding out in wrong-doing, it was resolved that the three principal castles in Scotland, with the towns attached to them, and the royal jurisdiction over them, should be seised into the hands of the King of England until his vassal should give satisfaction for his contumacy.[2] Before this parliamentary resolution passed into a decree, King John preferred to his superior, in very humble guise, a petition for delay, until he should consult "les gentes de mon royalme," as he called them, promising to report the result to the first Parliament after Easter. The Lord Superior thought fit to grant this petition. But these judicial

[1] "Quod de aliquo regnum suum contingente non est ausus nec potest hic respondere inconsultis probis hominibus regni sui."

[2] "Juri consonum est quod quilibet puniatur in eo quod ei prebet audaciam delinquendi, consideratum est similiter, quod tria principalia castra regni sui Scotiæ, cum villis in quibus eadem castra sita sunt, cum jurisdictione regali in easdem, seisiantur in manu domini regis et seisita remaneant quousque de contemptu et inobedientia predicta, eidem domino regi satisfecerit."

proceedings were destined to be borne down by political impulses of a more powerful kind; and we have no more records of the appeals against the King and Parliament of Scotland to the King and Parliament of England.

CHAPTER XX.

War of Independence to the Battle of Stirling.

EDWARD'S QUARREL WITH FRANCE—THE OPPORTUNITY FOR SCOTLAND — ALLIANCE BETWEEN FRANCE AND SCOTLAND — THE FOUNDATION OF WHAT IS CALLED THE ANCIENT LEAGUE—ITS IMPORTANCE IN EUROPEAN HISTORY—POPULAR CONDITIONS OF ITS ADOPTION ON THE SCOTS SIDE—EDWARD'S RETURN AND INVASION OF SCOTLAND — THE SIEGE OF BERWICK — BALIOL DRIVEN TO RENOUNCE HIS ALLEGIANCE—MARCH NORTHWARDS —EDINBURGH—THE REMOVAL OF THE CONTENTS OF THE ROYAL TREASURY — SCONE — REMOVAL OF THE STONE OF DESTINY— ITS STRANGE HISTORY BEFORE AND AFTER THE REMOVAL — THE BLACK ROOD OF SCOTLAND ANOTHER ACQUISITION—ITS HISTORY—EDWARD'S CIRCUIT AND COLLECTIONS OF HOMAGES— APPEARANCE OF WALLACE ON THE SCENE—WHAT IS KNOWN OF HIM COMPARED WITH THE LEGENDARY HISTORY—HIS CAPACITY AS A COMMANDER AND ORGANISER — HOW HE GATHERED AN ARMY—HIS VICTORY AT STIRLING BRIDGE.

At this juncture an event occurred on the Continent momentous to Scotland, and even to Europe. It furnishes, too, an apt warning of the futility of passing a judgment on the political relations of nations and communities from feudal forms and parchment records. In the records of the court of France for the year 1294, there is an entry to the effect that Edward of England, summoned as a vassal to appear before his lord superior, the King of France, having failed to obey the sum-

mons, is punished for contumacy. The forms of feudal style in which this step is recorded, are a fair rival in domineering and insulting language with those of King Edward's scribes in the affairs of Scotland, for France was then in one of its expansive transitions, and the tone of King Philip was high.[1] As lord superior he peremptorily fixed the day at which his vassal must appear before him in Paris; and he orders and adjudges him then and there to appear, as the gravity of the charges against him requires, to submit to the judgment of his lord superior, warning him that, whether he appear or not, justice shall take its course. The foundation for this citation was a paltry squabble at Bayonne, in which it was maintained that the British were the aggressors. King Edward was too deep in such mysteries not to know at once what his brother Philip the Fair intended. Having Ireland, Wales, and last, Scotland, to deal with at home, Edward's hands were full of business. He knew that the opportunity was only too good for an attempt to annex his French dominions to the crown of France, and the first step to be taken was to insult him, and convert him as speedily as possible into a contumacious vassal. Edward let the matter take its course, and prepared for

[1] "Vobis præcipimus et mandamus, sub pœnis, quas potuistis incurrere et potestis, quatinus vicesima die instantis natalis domini, quam vobis peremptorie Parisiis assignamus, compareatis coram nobis, sicut debeatis et debetis, et sicut tantorum facinorum et excessuum qualitas exigit et requirit, super eisdem, quorum cognatio ad nos pertinet, et prædicta tangentibus, et quæ ex eis sequi possent, et omnibus aliis, quæ contra vos proponenda duxerimus, responsuri, et juri parituri, et quod justum fuerit audituri, et etiam recepturi. Significantes vobis, tenore præsentium, quod, sive dictis die et loco compareatis, sive non, nos nihilominus procedemus, prout debemus, vestra absentia non obstante."—Fœdera (Record edition), i. 793.

war. He summoned a parliament for an aid, and John Baliol, who attended, made a munificent contribution to it—three years' rental of his vast English domains. It is not clear whether King Edward saw through the policy of this gift: it must have been clear to the giver that, if he retained his crown, he must entirely lose his English estates. He had wide domains in France too, which might be forfeited, so that the concurrence of conditions which had loaded him with the favours of fortune had also heaped perplexing difficulties around him.

An embargo was issued against vessels leaving the coasts, and nominally at least it extended to Scotland. The usual warrant for the feudal array was issued, and the chief vassals of the crown, with the King of Scots first in order, followed by Bruce and Comyn, were honoured by special writs of summons.

For a bold game in Scotland here was a good opportunity, and it was not lost. In the English chronicles we are told that, when Edward had departed on his expedition, a parliament was held at Scone, at which all the Englishmen holding office at court were dismissed, and a committee of twelve members from the higher grades in the Estates was appointed to conduct the business of government.[1] Of these transactions there is no better evidence, but of another and more significant we have an ample record. During the year 1295 a league, offensive and defensive, was concluded between John, King of Scotland, and Philip, King of France. In the record of the negotiations, which is very full, there is a specialty on the side of Scotland which seems to give some amount of materiality to that

[1] Rishanger, Hemingford, and Mathew of Westminster, anno 1295.

communitas, or community, which we have found dispensing its influence in a shadowy and uncertain form. On the side of Scotland, as parties to the transaction, are announced the Prelates and Nobles, and also the Communities of the towns or burghs, called also Universities, a term of wide use at that time, but soon afterwards limited to the great teaching corporations.[1] Hence, attached to the stipulations for Scotland, along with those of prelates or barons, are the seals of the burghs of Edinburgh, Aberdeen, Perth, Stirling, Berwick, and Roxburgh. It is very unlikely that the transaction was completed by any assembly that could be called a parliament. That might have been unsafe or imprudent had it been the constitutional arrangement for the conduct of such business. It had, no doubt, to be so conducted that it should be secret to many of the Scots themselves. Yet great care was taken to place it on a broad popular basis.

According to a fashion of the day, the diplomatists on both sides were eloquent in setting forth noble motives for what they were doing. The advisers of King John must have surely yielded to a sense of sarcasm, when they made him express his indignation at the undutiful conduct of the King of England to his lawful superior the King of France—perhaps it was a faint attempt to pay off old scores. This was the starting of that great policy which had so much influence for centuries on both sides of the British Channel—the policy of France and Scotland taking common counsel against England. It

[1] "Et quia regni nostri prelati quantum eis de jure licet ac comites, barones, et alii nobiles, nec non villarum universitates ac communitates dictos tractatus conventiones pactiones ac considerationes ut superius est expressum suo nomine approbaverunt et se per presentes observaturos firmiter promiserunt," &c.—Scots Acts, i. *97.

is just possible that the preservation of Baliol's French estates, Bailleul, Dampierre, Helicourt, and Hernöy, may have had some influence in reconciling him to so strong a measure; but what gave its real stability and power to the league between Scotland and France was their common interest, founded on their common danger. Prominent in this treaty was a royal alliance—Edward, the son of the King of Scots, was to marry the King of France's niece, the daughter of the Count of Anjou. There were stipulations for matrimonial provisions, and very carefully drawn stipulations, that Baliol's son, Edward, should really be his successor in the throne. For the rest King Philip engaged to protect Scotland from English invasion, by sending an army and otherwise, and the Scots king bound himself to break in on the borders while Edward was engaged in the war abroad.[1] This last was a bargain for wasting, destroying, and slaying, rendered in terms which sound savage through the diplomatic formalities. The engagement was but too literally kept. One rabble army swept the western, and another the eastern, border counties, pillaging, destroying, and burning after the old fashion.

Both returned without any battle or achievement to give the mark of soldiership to their expedition. A course more wantonly impolitic for a country in Scotland's position could not well be devised; but it was a country not only without any conspicuous leader, but deprived, by a succession of singularly adverse inci-

[1] The substance of the treaty is in some measure preserved in the Fœdera (Record edition), i. 822, and in Hemingford, i. 66. The most complete rendering of it, however, is in the first volume of the Scots Acts (Acta Regis Johannis), p. *95.

dents, of the machinery which a nation requires for its government even in ordinary times. Bruce, the competitor for the crown, died about this time. His son, the father of the great King Robert, was suspected of treating for the reversion of the rights likely to be forfeited by Baliol; and the raids against England seem to have been directed by Comyn, Earl of Buchan.

It has generally surprised historians that so strong and warlike a king as Edward should have left the French contest a loser rather than a gainer. His fiery spirit was, however, ruled by a deep sagacity. As emperor of all the British Islands, with Ireland, Wales, and Scotland subdued, he would achieve an eminence and power not to be risked for the sake of straggling dependencies on the Continent. Accordingly, he determined at present to concentrate his powers on Scotland.

He marched northwards with thirty thousand foot soldiers and five thousand mounted men-at-arms.[1] This was a powerful force. The horsemen, clad in complete mail, their actual fighting power enhanced by a superstition that they were unassailable, were then to an army what cannon are now—they could not be too numerous. An army, of course, required other elements, but these never failed in full proportion to the mounted men, whose number was ever limited by the difficulty of procuring them. He determined to pounce upon Berwick—at once the key of Scotland, and the centre of its commercial riches. He forded the river Tweed a few miles above its mouth, and thus

[1] The chronicles say 4000; but in the diary to be presently referred to the number is 5000.

got his army clear of the difficulty of crossing a river in the face of an enemy. He now marched through ground familiar to him in the conferences about the competition. At that time we have found that he came and went as he pleased, holding his court in the town or the castle of Berwick as suited him; but now the castle or citadel was garrisoned by Scots, and even the town resolved to resist. This presumption made Edward furious; and a chronicler of the day who was deep in the king's confidence, and practically concerned in his projects on Scotland, thought it worth his while to preserve some contumelious taunts with which an audacious citizen aggravated the monarch's potent wrath.[1] It received more ardent aggravation from the burning of some ships which had been sent for a sea attack. The town, with nothing apparently but a poor earthen mound to defend it, was taken at once. There is an awful unanimity of testimony to the

[1] This, as given by Rishanger, is perhaps the oldest relic of the Lowland Scots of the day: "Confestim unus e Scotis alta voce cœpit convitia et verba probrosa regi Angliæ inferre patria lingua,—Kyng Edward, wanne thu havest Berwic, pike the; wanne thu havest geten, dike the" (p. 373).

In an old French chronicle the taunt is varied, and accompanied by a hit at the personal peculiarity which gave occasion to the nickname Edward Longshanks—

"What wende the Kyng Edward
For his langge shanks,
For to wynne Berewyke
Al our unthankes?
Go pike it him,
And when he it have wonne
Go dike it him."

And in comment the chronicler says briefly: "Quant le bon roi Edward oi ceste reproece taunt fist il par sa prusce qe il assailli les portes, et passa et conquist la ville, et occist par soun gracious poer vynt et cink mille et sept centz."—Wallace Papers, 142.

Though we need not believe that these sarcasms had such an effect

merciless use made of the victory. The writer who knew best of all describes the king as rabid, like a boar infested with the hounds, and issuing the order to spare none; and tells how the citizens fell like the leaves in autumn, until there was not one of the Scots who could not escape left alive, and he rejoices over their fate as a just judgment for their wickedness.[1]

In the town, the Flemings had a fortified establishment called the Red House. It held out after the town was taken, and was destroyed by firing, thirty of its defenders being burnt within it. Thus it was on the community among whom the protection of the Lord Superior was first sought that his vengeance first fell. There was an end of the great city of merchant princes, and Berwick was henceforth to hold the rank of a common market-town, and be conspicuous only, after the usual fate of a frontier town, for its share in the calamities of war. The castle capitulated on

in raising the fury of the king, the notoriety given to them shows that they must have been effective, though we cannot now easily see their point. The best testimony to their celebrity is, that Peter Langtoft in his chronicle took them up as hits, and deliberately answered them in the spirit of the old taunt of retaliation, that they may laugh who win, since the pick-axe and the dyke at which the others sneered had been effectual:—

"Pikit him, and dikit him, on scorne said he,
He pikes and dikes in length, as him likes, how best it may be,
And thou hast for thi pikyng, mykille ille likyng, the sothe is to se,
Without any lesyng, alle is thi hething, fallen opon the.
For scatred er thi Scottis, and hodred in ther hottes, neuer thei ne the.
Right als I rede, thei tombled in Tuede, that woned bi the se."

[1] "Gens illa nuda et inermis misere lacerata occubuit; cœciderunt quemadmodum folia arborum in autumno, nec solum supestitem in civitate de Scotis inventum reliquit gladius regis. Tandem suos divina pietas victoria decoravit, Scotos infideles cæde simul et fuga dehonestavit."—Rishanger, 374.

terms, and the garrison was spared, though the citizens had been slain. Before leaving the place Edward dug a deep ditch or fosse, and raised a corresponding rampart, strengthened with stakes, on the Scots side of the town. It was reported at the time that he had himself wheeled a barrow in this service. It was one of those acts of inspiring condescension which show earnestness and determination, and become immortalised when exhibited in the service of goodness or humanity.[1]

A scene was enacted before he left the neighbourhood of Berwick. His vassal Baliol, according to the chroniclers, had been in restraint since his rather abrupt departure from England during the sitting of the parliament assembled to aid the war with France. He could not, if he would, have obeyed a summons to meet his superior at Newcastle. Those who now had a stronger hold on him than the Lord Superior, compelled him, instead of giving attendance, to render a written renunciation of his vassalship.[2]

This document did not reach King Edward until

[1] "Ipsemet cum vehiculo terram portabat."—Rishanger, 375.

[2] The instrument announcing the renunciation of fealty must have created unbounded ridicule among the accomplished feudal draftsmen in King Edward's employment. It is in extravagant contrast to the decorous documents among which it has been preserved. It is a piece of vehement scolding, weakened by the difficulties of putting that kind of expression into the Latin language. The conclusion is utterly inconsistent with feudal logic. On the ground of the outrages and contumelies to which he has been subjected, King John retracts homage and fealty to King Edward, both for himself and any subjects of his who may have committed themselves in the matter. If the homage and fealty were the fulfilment of the King of England's rights, they could not be retracted or withdrawn; and there is nothing said about their being illegal or exacted under coercion. It is easy to see that King John had not such skilful feudal draftsmen at his elbow as those who drew the documents in the Great Roll.—Fœdera (Record edition), i. 836.

after he had completed his work at Berwick. He was probably in high spirits; and it is on this occasion that he is said to have uttered the sarcastic threat—"The foolish traitor, what folly! If he won't come to me, I must go to him."[1] King Edward marched northwards, and the next point at which he met any difficulty was the Castle of Dunbar, close on the sea. It had but just fallen into the hands of the independence party; and we are told that it was taken from them, although an immense army came to the support of the garrison.[2] We are further told that the army was defeated and many prisoners taken. There evidently was not, however, a great battle with organised troops and known commanders pitted against each other. The Scots seem to have been a confused mass, of whose numbers very vague estimates were taken. It seems unnecessary, too, to repeat the names of persons of eminence casually, and perhaps not accurately, mentioned, who then ranged themselves on the side of Scotland. It was a brief allegiance, which had speedily to be revoked, and we have to wait yet awhile ere we can fairly range the two opposite parties—the invaders of the soil and its defenders.

On the 14th of June King Edward reached Edinburgh, and lived in the Abbey of Holyrood. He attacked the castle, setting up, as we are told, three engines, which pelted it day and night for a week before

[1] Epigrammatic utterances by historical characters on critical occasions are notoriously proved, when investigated, to be found standing on slippery testimony. This saying seems to have no better testimony than Bower's. He, however, evidently gives it unaltered in the form in which it existed in tradition, for it is stuck into his monkish Latin in the original French; and, as Lord Hailes observes, he mistranslates it, losing its point.—Scotichron., xi. p. 18; Hailes's Annals, i. p. 289.

[2] See Rishanger and Hemingford.

the place was taken. The chroniclers of later times relate that he removed the ancient national crown and sceptre, with the other emblems of sovereignty. Doubtless, if such things lay in his way, he would have carried them off. It may be questioned, however, if Scotland had then a "regalia" such as might befit a royal court of later times. We know that Baliol had among his effects an article called a crown, because afterwards, when he went to France, his luggage was searched, and among his effects there was found a crown of gold, which was hung up by King Edward as an offering at the tomb of Thomas a Becket. This does not appear, however, to have been a symbol of ancient investiture. The spoliation was, of course, the work of subordinates, but they acted under instructions, and made the proper reports of their proceedings. There has, indeed, been preserved, with thorough Norman precision, an inventory of articles which King Edward thought it worth his while to take with him to London in three chests, but no crown is mentioned among them, nor indeed any emblem of royalty, unless it may be some articles bearing the royal arms; these chiefly consist of plate and jewellery, and are more like the list in an indictment for housebreaking than the trophies that might decorate the triumphal procession of a conqueror.[1] He went next to Stirling, where he found the castle deserted,

[1] The most noticeable of the "jocalia," as they are called in the inventory, is "unus ciphus de ovo griffini fractus in toto argento munitus"—a griffin's egg, as it would seem, broken and patched with silver. It is supposed to have been the egg of an ostrich, or a cocoa-nut. There is, however, "una nux cum pede argentea deaurata fracta." The removal of these things was so far remembered as to get into the chronicles:—

"Hic rex sic totam Scotiam fecit sibi notam,
Qui sine mensura tulit inde jocalia plura."—Scotichron., xi 25.

and passed on to St Johnstone, or Perth, where he abode three days. In the adjoining Abbey of Scone he found something which it was well worth his while to remove and keep, and he either took it with him northwards or left it till his return: this was the Stone of Destiny—the palladium of Scotland. It was enshrined in a chair or throne, on which the kings of Scots were wont to be crowned. Its legendary history was, that it was the pillow on which Jacob reposed when he saw the vision of the angels ascending and descending the ladder, and that it was brought over by Scota, that daughter of Pharaoh from whom the Scots line of monarchs was descended. In terms of a prophetic couplet,[1] it was its virtue that wherever it might be placed there would the Scots be supreme; and it will easily be believed that the prophecy was recalled, when in after days the monarchs of the Stewart dynasty sat on it to be crowned in Westminster. In authentic history we hear nothing about it until its removal, when we may believe, at all events, that it had been used from time immemorial for the inauguration of the Scots kings. There is no doubt that it must have been long esteemed a relic of immense sanctity. Probably enough it might have been brought from the East by some pilgrim or crusader with a tradition attached to it.[2]

[1] "Ni fallat fatum Scoti, quocunque locatum
Invenient lapidem, regnare tenentur ibidem."

[2] The Stone of Destiny has been recently taken out of its case under the seat of the coronation throne. It was found to be an oblong rectangular block of limestone, a good deal worn with handling, and bearing no engraving or inscription. For lifting it there are two rings, one at each end, attached to it, with careful arrangements to prevent their breaking off by the weight of the stone. The morticing is in the centre of each end—equidistant from each side, and from the top and bottom.

King Edward was a serious prince, according to the notions of the age, and much given to relic-worship. He chose a spot sacred by its uses, and by the presence of his own household gods, for the reception of the great relic—the achievement of his sword and spear. It was in the chapel built by his father, containing the shrine of Edward the Confessor—where his loved Queen Eleanor and his father were buried, and where he then desired that his own dust should be laid.[1] He intended at once to enclose the relic in a shrine, which should be the coronation chair of the kings. At first he gave orders for a chair of bronze, then altered his intention, and had it made in wood. Its cover or shrine thus being a seat or throne, altered and adorned from age to age, became the coronation chair of the kings of England.[2]

King Edward got possession of another movable, valuable to him as a weakening of the enemy and a strengthening of his own hand by the possession of a potent relic: this was the celebrated Black Rood or Holy Rood. It was a certified fragment of the true cross preserved in a shrine of gold or silver gilt. It

As it would be inconvenient, however, to hold the rings in such a position, there is a bar or link long enough to keep each ring clear of the upper surface of the stone. The only old description of the stone, given in an English account of Baliol's inauguration, will be seen from the above to be inaccurate: "Concavus quidem, ad modum rotundæ cathedræ confectus."—Hemingford, ad an. 1292.

[1] "In contemplating it in its place—which we may now do—to feel the full effect of the scene we should for a moment restore in imagination the altar and its appendages, and lay aside for a time the low esteem in which relics, however sacred, are in those times held."—Joseph Hunter's Paper on King Edward's Spoliations in Scotland, Arch. Journal, xii. 245.

[2] For instance, at the coronation of Henry IV.—"Introducto rege, et incathedrato sede regali super lapidem qui dicitur 'Regale Regni Scotiæ,' cantabatur Antiphona."—Riley, Chronica Monasterii S. Albani, p. 294.

was brought over by St Margaret, and left as a sacred legacy to her descendants and their kingdom, and its removal was a loss to Scotland, second only to that of the Stone of Destiny. The rood had been the sanctifying relic round which King David I. raised the house of canons regular of the Holy Rood, devoted to the rule of St Augustin, at Edinburgh. The kings of Scotland afterwards found it so convenient to frequent this religious house that they built alongside of it a royal residence or palace, well known to the world as Holyrood House. The importance of such a relic to the country having the good fortune to own it, is shown in its finding a legendary miraculous history. As it goes, King David had gone a-hunting into the forest of Drumsheuch, on which stands Charlotte Square and other parts of western Edinburgh. The day was the commemoration of the exaltation of the cross. The king followed his sport in defiance of the solemn admonition of his confessor, and of course something was to come of his so doing. He followed, unattended, a stag, which stood at bay and would have done him deadly injury, but the sacred relic at the moment miraculously slid into his hands and the furious animal vanished.[1] This relic being small and portable was very useful to King Edward as a sanction in the administration of the oath of allegiance in the course of his journey. Afterwards, when he charged important persons with breaking their oaths of allegiance to him, it was put as an aggravation

[1] Liber Cartarum Sanctæ Crucis, Pref. This legend is told in Bellenden's translation of Boece (xii. 16), but not by Boece himself, an odd omission. See further the Miscellany of the Bannatyne Club, ii. 13.

of the crime that they had been sworn on the Black Rood.

The Holy Rood was afterwards returned to Scotland, and was again lost at the calamitous battle of Neville's Cross, to be told in its proper place.[1]

To return to King Edward's triumphal journey. He was in Forfarshire in the early part of July, and there, at Brechin or Montrose, the hapless King John came to him like a criminal, submitting to be dealt with as the conqueror pleased. Such documents as were deemed necessary to degrade and dispossess him were then drawn with the usual care.[2] He was sent in custody to England along with his son. He was not one of those whom Edward had any reason to fear; and two or three years afterwards, as the result of some

[1] An annalist of Durham who had seen the Reformation, after mentioning other spoils taken from the Scots in the battle of Neville's Cross, says, "together with 'the Black Rood of Scotland,' so termed, with Mary and John made of silver, being as yt were smoked all over, which was placed and set up in the pillar next St Cuthbert's shrine in the South Alley" of Durham.—This is stated in Sanderson's Antiquities of the Abbey or Cathedral Church of Durham, p. 28-29. But there is a more correct version of it in 'A Description or Breife Declaration of all the Ancient Monuments, Rites, and Customs belonging or being within the Monastical Church of Durham before the Suppression,' printed by the Surtees Society. The passage looks as if its author had seen the rood, which disappeared in his day no one seems to know how. See also 'St Cuthbert, with an Account of the state in which his Remains were found upon the opening of his Tomb,' by James Raine, M.A., p. 100. The old annalist attributes the legend of the stag and cross to King David II., who was taken prisoner at the battle of Neville's Cross, and for this is duly chastised by Mr Raine, who says: "My author goes on to state that this same David Bruce soon afterwards founded the Abbey of Holyrood in commemoration of the event. The truth is, that monastery was founded above two centuries before his time."—Raine, p. 109.

[2] There is a difference in authorities on the date of his submission, running between the 2d and the 10th of July. It is attributed to the time necessary to complete the proper formalities.

amicable negotiations, he was delivered up to the representative of the Pope, who saw him quietly settled down in his domains of Bailleul, in France. King Edward stayed a day or two at Aberdeen, and on the 26th of July reached Elgin, where he finally halted. He reached Berwick on his return on the 22d of August.[1]

During this journey King Edward very sedulously garnered in a harvest of personal homages. Attended as he was by his fine army, there was no help for it; all must obey but those who chose martyrdom, and homage did not take so firm a hold on the feudal conscience as to drive it to this extremity. Great territorial potentates and churchmen were specially sent for, others were taken as they fell in the way. As usual, everything that ceremonial in act and formality in parchment could do was done to make these submissions effective. It was set forth on each occasion, in very strong language, that the homage-doer came forward out of a sense of duty and of his own free will to record his allegiance. One thing is peculiar in these homages, that no reason is set forth why homage should be given, though, doubtless, there was a reason for such an omission. There is nothing said about the superiority over Scotland, nor is any closer right of authority assumed. The vassals simply give

[1] The statements about the articles removed by King Edward are taken from Mr Hunter's paper above referred to. The particulars of the journey are taken from an old document brought before the English Society of Antiquaries by Sir Harris Nicholas in a paper called 'A Narrative of the Progress of King Edward I. in his Invasion of Scotland in the year 1296.'—Archæologia, xxi. 478; and Miscellany of the Bannatyne Club, i. 271. It ends with a statement how King Edward "conquered and serchid the kyngdom of Scotland, as ys aforesaid, in xxi wekys withought any more."

their allegiance to Edward, King of England, Lord of Ireland, and Duke of Aquitaine.[1]

After Edward's return there is a pause, on his side at least, as if he were waiting to see the turn of events. A change may be noticed in the practice of drawing the royal writs. It is not so much a change in old style or form, as the dropping of novelties which recent occurrences had introduced. Ever since the great conference at Norham began, the royal writs relating to Scotland set forth in all ceremony his title as Lord Superior of Scotland. While this is dropped, King of Scotland is not adopted, but in the writs specially addressed to the Scots he speaks of them as those put under his government.[2] One of the earliest statutes passed after his return professed to be a remedy for ecclesiastical abuses, which were said to be rife in England as well as Scotland, and the record of the statute is indorsed with an instruction to transmit it to Scotland. It was clear that the intended policy was gradually to incorporate the new acquisition with the kingdom of England. For the internal administration of Scotland he took some steps obviously necessary for his designs. He took care that the places of strength should be held by persons who neither owned

[1] The documents connected with the homage, usually called "The Ragman Rolls," have been printed for the Bannatyne Club in a heap, under the title 'Instrumenta Publica sive Processus super Fidelitatibus et Homagiis Scotorum Domino Regi Anglice factis.' In the introduction will be found the conjectures of the adepts, none of them conclusive, on the etymology of the peculiar term Ragman.

[2] As in the address or proclamation on his departure to Flanders, beginning, "Rex dilectis et fidelibus suis universis et singulis et aliis quibuscunque de regno Scotiæ;" and he expresses a hope that his expedition will be "pro defensione et communi utilitate populi regnini nostro commissi."—Fœdera (Record edition), i. 180.

domains in Scotland, nor, from their descent, had an opportunity of forming ambitious hereditary designs there. The most notable of these were Warenne, Earl of Surrey, appointed Guardian, Hugh of Cressingham, the Treasurer, and Ormsby, the Justiciar. The strongholds were commanded and garrisoned by subjects of England equally free of Scottish influences. It is to this period that we must assign the raising of the bulk of the oldest castles in Scotland. The style in which they are built, indeed, is significantly called the Edwardian, to distinguish it from the earlier Norman style used by the Conqueror and his followers. As we have no distinct evidence of the persons by whom these buildings were raised, it seems a rational supposition that they were chiefly the work of the English authorities.

The people thus at last found alien masters at their door, and were sullen and suspicious. The foreign soldiers naturally conducted themselves as all military occupants of a subjected country do. The results were not of a kind to shape themselves into particular narratives; we only know that there was strife and confusion throughout. King Edward writes to Cressingham that all efforts must be made to bring to justice the wicked rebels, homicides, and disturbers of the peace with whom the land swarms, and to crush their rebellion. For this he is required to collect all the money he can raise, and to spend it. His obedience to this order for rigid taxation would do little to allay the growing storm.

It is at this time that the far-renowned William Wallace steps upon the stage. We know nothing of precedents which might lead us on to anticipate his public history; he comes to do his part like any actor

who may just have figured in any other character, tragic or comic. His father was a knight and a landowner, having the estate of Ellerslie in Renfrewshire. He had himself been knighted, and was thus, by the etiquette of Norman chivalry, as well entitled to lead armies as any noble, or even monarch, of his day. To which of the several races inhabiting Scotland his family belonged, is a question that has been deemed interesting, since he was certainly the representative and champion of that remnant of the Saxon, or pure Norse inhabitants of Britain, who had not yet been subjected to the southern yoke. But social position was of more weight in this matter than mere origin. He may have been of Norman descent; there were Wallaces scattered over England, and one came in with the Conqueror. But in reality the Normans were of the same northern Teutonic blood as the Saxons; and this it was that made them in the end assimilate into that well-assorted community which has made the England of the fifteenth and later centuries. The danger of the liberties of a country like Scotland was among those princely Norman houses which had domains in Scotland and England, perhaps also in Ireland, in France, and in Flanders. The position of Norman William to the chiefs among his followers and supporters had scarcely been that of sovereign and subject, in the later acceptation of the terms. They were all in a common adventure, and he was but the chief adventurer. It was long ere the crown became strong enough to widen its distance from these great houses; and they showed the old spirit in the Barons' Wars, and on several other occasions. Before the time we are dealing with, the great bulk of the

houses founded by the adventurers had gravitated into a position among the mere landed gentry or aristocracy of England; but there were still a few with domains scattered over Europe which had princely tendencies, and considered themselves entitled to put in their lot for thrones. It was the misfortune of Scotland at that time, that the natural representers and leaders of the country—the nearest relations of the old royal family—were all men of this class, and could not be trusted with the national interests. If a family had been living among the Scots people from generation to generation, it mattered not whether the first who pitched his tabernacle there had come from Denmark or Friesland—whether he had been one of the Saxons of England, seeking refuge from the tyranny of William's forest laws, or a grandson of one of William's own followers. The interests and feelings of such a family would be in harmony with those of the commonalty, of which they were a part; and it was of such a family that William Wallace came.

The later romancers and minstrels of his native land have so profusely trumpeted his personal prowess and his superhuman strength, that part of their eulogy has stuck to history.[1] Whatever his personal strength

[1] "Wallace had an iron frame. His make, as he grew up to manhood, approached almost to the gigantic; and his personal strength was superior to the common run of even the strongest men."—P. F. Tytler, vol. i. ch. ii.

Southey was so far influenced by the spirit of the bard as to sing, in unison with the old minstrels—

> "The sword that was fit for archangel to wield,
> Was light in his terrible hand."

It is believed that this sword may still be seen—in several places. The grave antiquary, Bishop Nicolson, with an unusual attempt at humour, says: "The famous Sir William Wallas, who was so barbarously treated

may have been, his achievements demanded qualities of a higher order. He was a man of vast political and military genius. As a soldier, he was one of those marvellously gifted men, arising at long intervals, who can see through the military superstitions of the day, and organise power out of those elements which the pedantic soldier rejects as rubbish. The military superstition of that day ran on defensive armour. The mounted knight could not be too completely shelled in iron; the plates could not be too thick; the whole affair could not be too unwieldy. This iron-clad ritter was a very formidable being to those who had faith in him. Nothing else but his own duplicate could injure him or resist him; and there were abundant facts to confirm the faith. Instances were on record where one or two mounted knights, thundering in among a herd of light-armed peasants, made such a scattering among them as does the lion when he appears among a herd of gazelles. It was not in Scotland that such scenes had been witnessed; but the scorn of the *canaille*, which they encouraged in the chivalry, spread over Europe. It was an exciting and pleasant view of their position to those on the bright side, and alike depressing to those on the other. Its tendency was to divide the world into an insolent aristocracy and a servile peasantry. The Normans were no longer a new race, proud solely of their personal

by our King Edward I., is still remembered as one of the greatest patriots and champions that Scotland ever had; and, as such, has had his exploits recorded by several hands. The poem which goes commonly about in old Scotch rhyme describes him like a true knight-errant, cleaving his foes generally through braun and bane down to the shoulders, and seldom striking off less than an arm or a leg."—Scottish Historical Library, p. 246*.

advantages, and ignorant of the names of their grandfathers. More than two hundred years had consolidated for them a lofty social position; and uniting pride of birth to pride in their personal endowments, they got servile clerks to invent ancient pedigrees for them, and lift them to an immeasurable social height above the yeomen and burghers of their day. It was a service to the world that this insolent and aggrandising spirit caught a check almost simultaneously in three places —Switzerland, Flanders, and Scotland.

In this last country, as we have seen, the conditions were peculiarly discouraging. Not only were there no leaders to be trusted, but the country had enjoyed peace—a peace scarcely disturbed for more than a hundred years. During this time the English had been ever fighting—in Ireland, in Wales, in France, and among each other in the Barons' Wars. The end showed, however, that the stuff of which a warlike nation is made abounded: in fact, historical conditions had made the Lowland Scots the very pick of the hardy northern tribes. They were made up of those who had left their homes whenever they found tyranny, or, as it may be otherwise called, a strong government, pressing on them. Thither came those who had successively swarmed off before the pressure of Varus, of Charlemagne, of Gorme the Old, and of Harold the Fair-haired. And the last, and perhaps the stoutest and truest of all, were the Saxon peasants who had sought refuge from the iron rule of the Normans among a kindred people still free.

Of the character in which Wallace first became formidable the accounts in literature are distractingly conflicting. With the chroniclers of his own country, who

write after the War of Independence, he is raised to the highest pinnacle of magnanimity and heroism. To the English contemporary chroniclers he is a pestilent ruffian; a disturber of the peace of society; an outrager of all laws and social duties; finally, a robber—the head of one of many bands of robbers and marauders then infesting Scotland. But Edward's government and organisation were not of a kind to permit mere sorning and robbery. There were far more formidable powers at work than those which the administration of criminal justice could cope with. The people were all exasperated, and all ready to rise against their new oppressors, wanting but a leader; and the course of events brought them that leader in Wallace.

Among the many who have chronicled his fame, Harry the blind minstrel is pre-eminent in having devoted his whole force to the glorifying of his hero. Harry was a blind wandering minstrel, but he belonged to the days when his craft might be that of a gentleman; and while he addressed the commonalty to rouse their patriotic ardour, he was received at great men's tables. He deals with events, however, which were two hundred years old when he sang them: he had no authority but tradition, and history must receive his stories with much jealousy. Many of them, indeed, are practically impossible, or deal with supernatural agencies; and they are valuable, not as narratives of facts, but as the things which the people of Scotland delighted to hear about the hero of their idolatry. Still, it has to be said that, incidentally from time to time, little morsels of evidence have turned up, serving curiously to confirm the fundamentals of some of his stories. Take, for in-

stance, the tragedy which made him swear eternal vengeance against the invaders. He has just taken to wife a virtuous damsel named Bradfute. She resides in the town of Lanark, where there is an English garrison; and as he is a marked man, from having already resented the insults of the invaders, it is not safe for him to reside there, and he must be content with stealthy visits to his bride. One day, having just heard mass, he encounters some straggling soldiers, who treat him with ribaldry and practical jokes. A very animated scene of taunt and retort, what is vulgarly called chaffing, is given by the minstrel; but it must be held as in the style of the fifteenth rather than of the thirteenth century. Wallace bears all with good temper, until a foul jest is flung at his wife. Then he draws his great sword, and cuts off the offender's hand. He is joined by a few of his countrymen, and there is a scuffle; but the English are many times their number, and they must seek safety. His own door is opened for Wallace by his wife, and he escapes through it into the open country. For this service his poor wife is slain, and then he vows eternal vengeance. Gathering a few daring hearts round him, he falls upon the garrison in the night, burns their quarters, and kills several of them, among the rest William de Haselrig, whom Edward had made Earl of Clydesdale and Sheriff of Ayr.

The story is not, on the whole, improbable: we can easily believe in such a man being driven desperate by insults and injuries to himself and to those dear to him. But the latter portion of the story is confirmed in a curious manner. About sixty years later, a

Northumbrian knight, Sir Thomas de Grey, had been taken prisoner in the Scots wars, and was committed to the Castle of Edinburgh. There, like Raleigh, he bethought him of writing something like a history of the world; but it fortunately gave a disproportionate prominence to events in or near his own day, especially those in which he or his father participated. He tells how, in the month of May 1297, his father was in garrison at Lanark, and that Wallace fell upon the quarters at night, killed Haselrig, and set fire to the place. The father had good reason to remember and tell about the affair, for he was wounded in it, and left on the street for dead. Had it not been that he lay between two blazing buildings, he would have died, wounded as he was, of exposure in that chill May night, but he was recognised by his comrade, William de Lundy, and tended by him till he recovered.[1] Further, it was charged against Wallace, when indicted in London, that he had slain Haselrig and cut his body in pieces.

1. The influence of Wallace's nature brought around him companions. He got by degrees a little band capable of harassing outlying parties of Edward's soldiers. He and his followers were emboldened at last to the flagrant audacity of making a raid on the great justiciar, Ormsby, when holding a court at Scone. The

[1] Scalacronica, 124. We are told by the editor of the Chronicle that Sir Thomas de Grey, having claimed some reward for his services against the Scots, King Edward II., in the year 1319, issued letters patent, reciting that "he had given to Thomas de Grey and to his heirs for ever, in consequence of the good, loyal, and long-continued service of the granter against the Scotch, an hundred and eight acres of arable land, and eight acres of meadow, with their appurtenances, in Howick near Alnwick."—Introduction, xx. Thus the Cumberland Greys acquired the possessions which gave them the title of Howick.

justiciar took to his heels and escaped, but prisoners were taken and some rich plunder, which made the feat, in the eyes of the common lawyers, a very audacious burglary. It was an event of still greater importance that Wallace was joined by a territorial magnate and a soldier of renown, William of Douglas. The origin of the family is supposed to have been Flemish. Whether or not this kept away all sympathy for the Norman adventurers, the family were not then tempted to a divided allegiance by estates scattered in other countries, and were among the few great landed lords who could truly be called Scotsmen. Douglas had repeatedly done homage to King Edward. He was the commander of the Castle of Berwick when it capitulated, and was of course bound as tightly to Edward's service as oaths and parchment could bind him. But his presence gave a respectability to the insurrectionary force, which as yet the leader, who had given no allegiance to be recalled, could not have conferred on it.

Those with whom the responsibility for the tranquillity of Scotland chiefly lay, saw in such events an ugly tendency to turbulence, which must be extinguished at the beginning. Beck, the warrior-bishop of Durham, took this in hand, but he was attacked in Glasgow, and, like the justiciar, had to run for his own safety. King Edward was then starting for Flanders. He had the bulk of the Scottish barons with him, and the others left at home, especially Bruce, were well watched. According to the experience of the age, when the natural leaders were removed or cared for, the people would be safe in the hands of those sent to govern them; and so little apprehension was there,

that Warenne, Earl of Surrey, the governor, had returned to England for the benefit of his health. Beck, animated by the fright he had got, had a formidable case to lay before the king; and he directed Surrey to levy the military array to the north of the Trent, and go and stamp out these disturbances. For his own reasons, Surrey sent his nephew Percy to manage this affair. The force sent was 300 mounted men-at-arms, and, according to the best-informed chronicler, 40,000 foot-soldiers. This number may be taken in a wide sense; but from the number of mounted men it is clear that the force was not very strong. It passed through Bruce's country of Annandale, and on to Lochmaben, where at night there was alarm of an enemy at hand; and we are told that the army burnt their wooden huts to get light and see what was the matter. The force marched on by the west coast, passing through Ayr to Irvine, where an event occurred which has a place in diplomatic record. It requires a word of preliminary explanation.

Before this time, as we have seen, Bruce, the competitor for the crown, died an old man. The head of the house at this time lived, in fealty to Edward, on his estates in England, content, as it would appear, to enjoy the advantages which his rank and wealth gave to him, and disinclined to cast his lot in troubled waters. His son lived in Scotland as lord of his mother's domains in Carrick. He was of a temper more restless and ardent; and the convulsive political conditions by which he was surrounded tended to excite him. Independently of the vision of a crown that could not but haunt him, he was one of a class for

whom much allowance should be made. Their taste and training, in many cases their interest too, attached them to the brilliant court of the King of England. Yet in Scotland, where they had estates, there was a determination not to be subjected to that political arrangement which to them, to some of them at least, would have been the most pleasant. Hence we find those dubious movements and uncertain aims which have subjected them to much infamy as the betrayers of their country. Historians seemed to have found in this broad charge a sort of revenge for the perplexities which they have had to endure from the indistinct and unaccountable movements of many of these barons; and it will perhaps give us a better notion of the truth to think of them, and of the peculiar conditions surrounding them, in a general way, than to endeavour to follow up the career of each from his motives to their result. When the country became more and more restless, and it was known that a leader, rising out of obscurity, was actually gathering an insurrectionary force about him, it was felt that Bruce might be tempted into mischief; and the wardens of the western marches called him to Carlisle, and required him to take the strongest obligations of fealty they could think of. He gave, too, a sort of guarantee for his sincerity by outrages on the lands and household of the Douglas, who had attached himself to Wallace. Afterwards, however, he seems to have chafed at inaction—to have panted to be, at all events, in a position to act when he saw fit. He called on the Annandale men to muster round him. These were his father's vassals, and they declined to commit them-

selves to some uncertain enterprise, when the demand was not even made by their proper lord. He raised a body from his own domains in Carrick; but what he was to do with them was not known to others, probably not distinct to himself. To join Wallace could hardly serve him any good turn. Wallace was, in all his conduct, thoroughly constitutional. There had been a king of Scots throned at Scone as King John. Of that king, as the head and representative of the state, he counted himself the servant; and everything that he did was in the name of John, by the grace of God, King of the Scots. What Bruce had to look for, then, if he joined Wallace's army, was the dire vengeance of Edward if the rising were a failure, and the loss of his English domains if success should make him a Scots earl under King John.

Bruce, with his Carrick men, and a cluster of other barons, whose objects seem to have been equally undecided, were at Irvine when Percy's army had come so far. They came to the conclusion that the best thing to be done was to surrender on terms. They asked if there was any one in the English army authorised to receive them to King Edward's peace; and being told that there was, they negotiated a surrender. It is on record as written at Irvine on the 9th of July. The persons who surrender are Robert, Earl of Carrick; James, the Steward of Scotland; John, his brother; Alexander de Lyndesey; and, rather unaccountably, William of Douglas.

We have no reason to suppose that Wallace was present on this occasion. His name is not mentioned by the contemporary English chronicler, whose account of the affair is the most minute, and the source of all

others.[1] Wallace seems, indeed, to have been in the north laying his plans for resisting the invading army at the Forth, or the Scots Water, as it was still called. This is important, because it has so often been said that his army was distracted by the divisions caused by the nobles in his ranks, who were jealous of his supremacy. To complete the character of a great commander, he should be too strong-handed to permit dissension in camp, however many enemies he may have outside; and better evidence is needed ere we allow such a blot on the generalship of Wallace.

The affair of Irvine added to the number of the feudal leaders of the Scots whom Edward held in hand, and he thought he might with safety take his intended departure for Flanders. While he was there

[1] Hemingford, i. 123. The discovery of the blunder of a copyist which has tended to support the notion of Wallace having been concerned, is one of the achievements of the minute eye of Sir Francis Palgrave. Let him tell his triumph. "The first of these instruments, or the submission, concludes with these words: '*Escrit a Irewin* le noevime jour du mois de Juyl en le an del regne le Reys Edward vintime quint' (p. 198). This passage is thus printed by Rymer (i. p. 868): '*Escrit a Sire Willaume*, le noemme jour du moys de Juyl en le an del regne le Reys Edward vintime quint.' The original is somewhat defaced, and Rymer, or his transcriber, not being conversant with the character, nor very familiar with the language, in reading the word *Irewin*, mistook a partially effaced flourish of the capital *I* for an *S*, and the three parallel strokes of the concluding syllable '*in*' for the letter *m*, thus altering the word to '*Sirewm*.' The next stage in error was to divide this word into *Sire Willaume*, and thus the printed text was formed. Upon this text, appearing in an authentic publication, the subsequent writers of Scottish history had to work, and it was quite natural to suppose that *Sire Willaume* could be none other than Sir William Wallace. Hence Lord Hailes observes, 'the meaning is, as I presume, that the barons had notified to Wallace that they had made terms of accommodation for themselves and their party.' 'But Wallace scorned submission,' &c. (i. p. 302.) The whole of this reasoning, and much more, is therefore grounded upon the false reading of a modern copying clerk."—Documents and Records, Introd., pp. cxxiv. cxxv.

Wallace organised a great force in the Lowland counties northward of the Tay, getting large accessions from Aberdeenshire. He got possession of nearly all the strongholds, such as they were. He was besieging the Castle of Dundee when he heard that the English force with Surrey, who had followed his nephew, and Cressingham, the treasurer, were making for Stirling Bridge, the great pass between the north and south. There he resolved to deal a blow which might stop them.

The position he took up has natural features which explain at once how it suited his purpose. It is marked by the tall tower of the Abbey of Cambuskenneth, on the flat carse lands below Stirling through which the river Forth winds itself.[1] Close behind him was the Abbey Craig, an abrupt trap-rock, yet not in all places so abrupt but that pathways might be found to the top, which those first in possession could use, and then so fortify as to defy any others to follow them. From the back of the Craig a neck of broken ground led immediately to the near mountain-range called the Ochil Hills: so much for the means of retreat. For receiving an enemy the ground was still more happily selected. It was within one of the loops of the Forth, which swept almost all round it in a circle. In all ages of warfare the advantages of such a position are notorious—it makes the commander inside the loop master of the situation. To get at any point, whether it be to cross over or to meet an enemy crossing, the leader inside the loop has only the diameter of a circle to deal with, the leader outside has the circumference to go round, so that the choice of the conditions of

[1] The Monastery of Skambskynel, as Hemingford calls it.

battle—if the English commanders were determined on a battle—lay with Wallace.[1]

Little reliance can be placed on the numbers in such armies. The English chronicler, who has given the earliest and fullest account of the war, says that Wallace had forty thousand foot-men and one hundred and eighty mounted men. On the English side there were fifty thousand foot-soldiers. The mounted men, however, would be considered the element of real importance, and when it is said that these numbered a thousand we may suppose the estimate pretty accurate. The English commanders, we are told, might have strengthened themselves from an additional force under Percy, but they already thought their army more than sufficient for its purpose. Before the battle there occurred an incident curiously exemplifying the position of the Norman or Normanised aristocracy, whose titles nominally connected them with Scotland. The Steward and the Earl of Lennox, with some others in Surrey's army, requested that the fate of the Scots army might be postponed until they should reason with its commander. They had sympathy enough with the commonalty of Scotland to desire not to see them butchered in a helpless mass. They returned, reporting that Wallace was absolutely unreasonable, and that there was no hope of averting a contest. Two friars sent to the Scottish camp, probably as a final effort to prevent useless slaughter, were equally unsuccessful.

On the morning of the 11th of September the Eng-

[1] The chronicler, Hemingford, pays a high tribute to Wallace's generalship in saying, "Nec fuit aptior locus in regno Scotiæ, ut concludendum Anglicos in manus Scotorum, aut multos in munus paucorum." —I. 128.

lish commanders resolved to pass the Forth and attack the Scots. Nothing but a steadfast faith in the transcendent superiority of their trained troops when set against a rabble could have tempted them to a project which, if there were but an approach to equality in fighting power, was desperate. There was a proposal to take a detachment across by a ford, so as to make a flank attack while the main body crossed the bridge. If there was any near point where the river could then be forded there is none now; but the English commanders —Cressingham especially, it is said—were too impatient for the punishment of their presumptuous foes to adopt any such timid policy. The bridge was narrow, and permitted the horsemen to pass only two and two. The English army kept streaming over from early in the morning until eleven o'clock. The Scots were, it would seem, drawn up on the slopes of the Abbey Craig, silent and actionless. At length, when their leader thought a sufficient number of the enemy were on his side, he sent a body round to seize and hold the head of the bridge, and stop all passage to or from it. That he should have been able to do so showed extreme negligence in those responsible for the safety of the English army. This could not but create extreme uneasiness in those who had crossed the bridge; the foremost were struggling to get back, while those behind were yet pressing on, and in the crush and confusion many fell into the river. With this to discourage and alarm them in their rear, the troops who had cleared the bridge had to meet an onset from the bulk of the Scottish army. The result was irretrievable confusion and general slaughter. The completeness of the ruin of the English army is attested by one of

its knights having gained immortality by effecting a retreat for himself and some others: this was Sir Marmaduke de Twenge, who, when others spoke of throwing themselves into the river, with a small following cut his way to the bridge and recrossed it. But the recovery was of little avail to the rest of the army. It only tempted them to flight; and while the bridge drew off its narrow crowd, the Scots slaughtered the mob crushing upon it, or drove them into the river.[1]

Surrey had not crossed, but he felt the defeat so entire that he at once rode hard to Berwick. Cressingham was a churchman, but much given, as it was said, to the pomp and circumstance of glorious war. He had been the soul of the English oppression in Scotland, and was very hateful. There are stories told of the Scots having taken off his skin and distributed it in morsels—not by any means, as the monkish chroniclers say, out of veneration for them as relics. One can easily believe this to be true, while wishing that no worse things had to be recorded about the contest to which England and Scotland were now fairly committed.

[1] Harry the minstrel tells how Wallace tampered with the supports of the timber bridge:—

> "A wricht he tuk, the suttellast as thar was,
> And ordained him to saw the burd in twa,
> Be the myd streit, that nane mycht our it ga:
> On charnaill bandis nald it full fast and sune,
> Syne fyld with clay as no thing had beyne done.
> The tother end he ordained for to be,
> How it suld stand on three rowans off tre,
> Quhen an war out that the laif down suld fall."
> —vii. 1150.

He then stationed a person at hand, who had nothing to do but to draw a peg at a given signal, when the bridge fell with all who were on it. A trick like this was a means of exciting the admiration of the multitude, slow to understand the higher qualities that enable a commander to handle effectively the special forces at his disposal.

CHAPTER XXI.

War of Independence to the Battle of Roslin.

NATIONAL INFLUENCE OF THE BATTLE OF STIRLING—WALLACE'S DEALINGS WITH THE HANSE TOWNS—RAIDS INTO ENGLAND ON THE EAST AND THE WEST—WALLACE'S PERSONAL CONDUCT—PROTECTION TO THE MONKS OF HEXHAM—BECOMES GUARDIAN OF THE KINGDOM—EDWARD'S SECOND GREAT INVASION—SIEGE OF DIRLETON—BATTLE OF FALKIRK—DISAPPEARANCE OF WALLACE FROM HISTORY—QUESTIONS AS TO HIS HAVING GONE TO FRANCE AND ROME — FRENCH AND ENGLISH DIPLOMACY — FRANCE AND SCOTLAND BALANCED AGAINST EDWARD AND THE FLEMINGS—THE QUESTION OF THE INDEPENDENCE OF SCOTLAND BEFORE THE COURT OF ROME—A PAPAL EMISSARY—HIS ADVENTURES ON THE BORDER—THE CURIOUS CASE GOT UP BY KING EDWARD—ACTIVE WARFARE RESUMED—THE SIEGE OF CAERLAVEROCK—ITS HISTORY A TYPE OF THE SIEGES OF THE DAY—BATTLE OF ROSLIN.

THE later chroniclers tell us how Wallace, having the country at his command, set to and adjusted thoroughly effective systems for the official organisation of the executive, the administration of justice, and the transaction of local business by properly constituted local boards. But in the emergency the defence of the country would be the pre-eminent consideration, and so we are told how he divided the kingdom into military districts, and appointed a muster-book of able-bodied men between the ages of

sixteen and sixty to be kept in each shire, barony, lordship, town, and burgh. The persons who mention these things lived at a time too late to have practical knowledge of them; and we all have practical knowledge of the fact, that it has been an established historical etiquette to attribute such organisations to the hero of a country's idolatry when the fortune of war has given him the upper hand.

There is, however, one little authentic vestige of his public conduct after the battle which shows him prompt to help the cause of peaceful progress. We may look on this battle as the point at which a change in national feeling was completed. The Scots had no natural antipathy to their English neighbours, who were of the same race as themselves. They were jealous of the interference of the Norman kings and nobles with their institutions, but in this they made almost common cause with the Anglo-Saxons. Gradually, no doubt, since soldiers and tax-gatherers had come among them, there grew a dislike of the English people. Now the two had measured their strength in a stricken field—a great inspirer of national animosity; and from this time we may date that obdurate hostility, the last vestiges of which have almost been seen by the existing generation. The victory was an immediate and a permanent encouragement to the Scots. Through all the calamities and reverses they had afterwards to endure, it reminded them that the enemy so haughty and so powerful had been beaten, and might be beaten again.

Its immediate influence was so powerful as to clear the country of the invaders. All the strongholds were recovered by the Scots—even Berwick, the loss of

which was very vexatious to Edward, for he had given instructions to make it impregnable with stone walls, in addition to his earthen mound, and the instructions had been neglected.

There lately was found in the old commercial city of Lubeck a short document, which happens to be the only authentic vestige of Wallace's movements immediately after the battle. It is dated 11th October 1297, and is a communication to the towns of Lubeck and Hamburg in the name of Andrew de Moray and William Wallace, generals of the army of the kingdom and community of Scotland. They thank the worthy friends of their country in these towns for services and attentions which the unfortunate condition of their country had hindered its people from duly acknowledging. They assure their distant trading friends, however, that commerce with the ports of Scotland will now be restored; for the kingdom of Scotland, thanks be to God, has been recovered by battle from the power of the English.[1] We have seen that Scotland was becoming an actively trading nation before her troubles broke out. And this little document is a touching testimony to the prevalence of those peaceful pursuits, which were so cruelly crushed by the remorseless invaders; we have to wait many years ere we again find the trace of foreign trade in Scotland.

Indeed, very evil days were close at hand. A famine fell on Scotland, and, whether for food or vengeance, bands of armed men crossed the border, and played havoc in Cumberland and Westmoreland, over the old disputed district. The English chronicles—which are the only contemporary accounts of this affair—are con-

[1] Wallace Papers, 159.

fused, as all accounts of plundering and devastating inroads, whether by friend or foe, must needs be. Language and imagination are almost exhausted by the monkish chroniclers in describing the cruelties and brutalities of these rievers; and yet the accounts of their deeds want originality, for there had been a sort of terrible formula for describing the work of a Scots invading army from the Battle of the Standard downwards. Of cruelty and rapacity there was no doubt a fearful amount, but it must be remembered that the suffering side had the telling of the story; and it was a policy with the English clergy, who were also the historians, to make out that the Scots were sacrilegious as well as cruel, and reserved their special tortures and indignities for holy men and women.

Wallace was at one time in the host taking command. From the tenor of the confused narratives, it might be inferred that the marauders had swarmed over the border before he joined them, and this is almost proved by dates. The letter to the corporations of Hamburg and Lubeck was written, as it says, in Scotland, bearing date 11th October; and when he was at Hexham, on the 7th of November, he found the place devastated by a previous inroad. At all events, those memorials of the sad business which are most distinct and authentic are thoroughly honourable to his memory. After a hundred and sixty years, the unfortunate Priory of Hexham was again wasted, and, as the annalists of the house tell us, just when they were exulting in the possession of noble additions to their buildings. When Wallace went there only three monks were found, cowering in a little oratory which they had made for themselves, in the midst of their

devastation; and when some one asked where their treasury was, they said the Scots horde had already carried it off, and they who had removed it would know where to find it. Then we are told how Wallace desired one of the monks to celebrate mass, and gave reverent attendance on it, yet could not take such order but that when his back was turned his rough followers plundered the altar of what sacred symbols were yet left. What we best know of his conduct on this occasion is, that he granted two writs of safe-conduct—the one to the prior and convent generally, the other to one of the monks, with a man-at-arms and two domestics, when on a journey to hold an interview with him. He had then associated with himself in the nominal command a young hero, afterwards renowned, Sir Andrew Moray. To him, in the preamble, he gives precedence, beginning: "Andreas de Moravia et Willelmus Wallensis, generals of the army of the King of Scotland, in the name of the illustrious Prince, the Lord John, by God's grace King of Scotland, with the consent of the commonalty of the realm." These writs are among the few luckily preserved morsels of real evidence which, in the minds of some, prevent the career of Wallace from being treated as that of a mythical person.[1]

[1] That these documents should be given by Hemingford (i. 135) in a shape to stand criticism, is a testimony to the general credibility of that chronicler's narrative; and not the less so that he can scarce ever mention Wallace without calling him *ille latro*, which may either mean that robber or that cut-throat. See on this inroad the chronicle of Henry of Knyghton, by Twisden, 2520. He tells naturally enough how the depredators, bullying at Carlisle, said they appeared in the name of "William the Conqueror;" and when asked for an explanation of so startling a title, said he was William Wallace, the King of Scotland's general. In Prynne's Records (iii. 542) there is an account which rather discredits itself by representing John, King of Scotland, as the leader of

After these affairs, we find Wallace acting with the title of Guardian of the kingdom of Scotland, and leader of the armies of the same, in name of King John, and with consent of the commonalty. Whether or not, as the later chroniclers say, it was by a parliament held in Selkirkshire that he was raised to this dignity, we may conclude that it had the consent, in some shape or other, of the burghs and other portions of the Estates. There is just one writ by the guardian extant—it appoints Alexander of Scrimischur, or Scrimgeur, to be constable of the Castle of Dundee, and invests him with certain lands on the hill above the town in reward for his fidelity in bearing the royal banner of Scotland.[1] The constabulary and the estate were held for

the raid. It is during this inroad that the English chroniclers tell us how seven earls of Scotland took part with their followers—the Earls of Buchan, Monteith, Strathearn, Lennox, Ross, Athole, and Mar, along with the son of John Comyn. We are told that they collected a great force in Annandale—Bruce's country. This seems to have been a separate expedition from that commanded by Wallace. They attacked Carlisle and burned the suburb. They tried to fire the gate, but unsuccessfully; and we are told how a certain Galwegian, having reached it with a blazing faggot, was speared by men posted above the gate. It happened that a Scots riever was at that time a captive in Carlisle, and knowing that his countrymen were besieging the town, he co-operated with them by setting it on fire, and burning a large portion of it. We are told that the citizens—women as well as men—manfully defended the walls with stones and arrows, and drove the assailants away. In that expedition the Scots were aided by an ally of a remarkable kind—Robert de Ros, the English governor of Werk, who deserted his post and the service of Edward, and showed his zeal in the cause of the Scots by surrounding a force of a thousand Englishmen, at a place called Prestfen, and putting them to death, save a small number who escaped; this is not the sole instance in which a disposition was shown in the northern counties to make common cause with Scotland. This episode of the siege of Carlisle by the seven earls is not to be found in the usual chronicles and histories. It occurs in the Scalacronica, 122, and is given in more detail in Rishanger, 156. Both give the titles of the earls, and in the same order.

[1] The writ will be found in Anderson's Diplomata, and in the Wallace Papers, p. 159.

centuries by Scrimgeurs, who distinguished themselves in honourable service; and a special lustre was always conceded by the popular voice to that race which held a hereditary title conferred by Wallace.

For all that a great victory had been gained, and the enemy swept out of the country, a close inquirer, looking at the condition of things, even without light from subsequent events, could see that there was small hope for Scotland. Wallace might be, in the abstract, the idol of the people, and they might be ready to place in his hands their liberties and their property; but the organisation by which the people were brought to act, both for peace and war, was the feudal system. The king banished—the great feudatories of the crown keeping out of the way, if they were not obstructive—the feudal organisation could not be worked, and a popular chief could not create, at his own hand, a substitute for it. The end was only delayed by the difficulties of King Edward. He was still in Flanders, where matters hardly went to his mind; and when he came over to Westminster, demanding from his parliament a grant for the punishment of Scotland, he was met by the old demand, odious to the ears of his race, for the confirmation of the charters in the first place; his patriotic parliament would then consider about a supply. Having got what he could, there were personal summonses stringently urged, and the levy of the feudal array; and while his troops were gathering, the king took the opportunity of making a pilgrimage to the shrine of St John of Beverley—a kind of incidental aid which he always sought for his projects, when it did not interfere with the preparations for effecting them by the arm of the flesh.

He entered Scotland with an army which, if it approached the character given of it by the English chronicles of the day, was magnificent and overwhelming. There were at first 7000 mounted men-at-arms, 3000 of them in coats of mail, and they were afterwards joined by 500 from Gascony. After this the number of foot-men was of little moment. Eighty thousand is spoken of as the number. Among them were many of the king's Welsh and Irish subjects; these were not of much repute in regular war, but it was generally deemed a matter of small moment from what material the ordinary rabble of foot-soldiers were collected.

The army met an interruption at the Castle of Dirleton, near the promontory of North Berwick. At all events, if it were not taken, they would leave a strong place behind them garrisoned by the enemy, and it was not easily taken. Its ruins, which may now be seen, are of a building of that age, and it is possible that it may have been the first of the new class of fortresses besieged in Scotland. We know nothing, unfortunately, of the details of the siege—merely that the indefatigable warrior-bishop, Anthony Beck, found the taking of the place a long and difficult business. It is noted that the besieging army, running short of provisions, were able to supply themselves from the produce of the surrounding fields, and this has been taken as evidence of the fertility of the south of Scotland at that time.

Ere the king and his army reached the Forth, near Edinburgh, they saw the policy of their enemy, and were somewhat unnerved by it: it was to leave them to tread a desert where there was neither food to eat,

nor man to direct them on their way. The policy was, indeed, almost effectual, and only some small chances in their favour saved them from a miserable retreat.

The crisis must have been a tantalising one to Wallace. He could muster but a poor force—about a third of the enemy's on the whole, and only a thousand mounted men. A battle was ruin to him, but he believed that if he waited the starved army of the invaders would have to retreat, and his force was sufficient to do them abundant mischief by harassing them as they went; but fortune was against him. Hovering in the neighbourhood to catch the opportunity when it should come, he was discovered. Two knights, and it is noted that they bear Scotch titles, are said to have sent a boy to Edward to tell him where the Scots army was to be found.[1] No time was lost in putting this information to use. The army, marching from Kirkliston, required to spend a night near Linlithgow, and, king and all, they lay upon the bare ground. King Edward was a thoroughly working soldier, and it was not the notion of his age that it behoved a commander, especially if he were of royal

[1] This incident has been founded on as one of several which show the Scotch aristocracy of the day as traitors to their country. The authority for it is in a passage in Hemingford, certainly one of the oddest in which a crisis in a nation's fate has ever been told: "Ecce duo comites, Patricius S. et comes de Anegos, die proximo ante festum Mariæ Magdelinæ, summo diluculo ad Episcopum Dunelmensem venientes, et cum eis episcopus statim ad regem statuerunt puerum exploratorem coram rege, qui diceret 'Salve rex,' et rex ad eum 'Salve.' Puer etiam intulit 'Domine mi rex, exercitus Scotorum et omnes hostes tui non distant a te nisi per sex lucas modicas juxta Faukirke," &c. (p. 162). The account is repeated in the same words by other chroniclers. Patricius S. is set down as the Earl of Dunbar. This is rather slender evidence on which to identify two Scotch earls, and then find them guilty of treachery to their country.

rank, to isolate himself in splendours and comforts from the vulgar hardships of the field. That night a page mishandled a horse near the king, and the beast's hind legs struck and wounded him, breaking two ribs as some authorities say.[1] This made no interruption; the king reserved the tending of his wounds until he was through the momentous business of next day.

There was no chance for Wallace in retreat—no alternative but to fight. In the previous battle the great point made was the selection of the ground; in this he showed even more of the tactician in the disposal of his troops where they were compelled to fight. It is a strong testimony to skill in the ordering of an army that it should be not only distinct, but hold a shape of which we can estimate the merit by knowing how valuable it is in modern warfare. The English chronicler describes the marshalling of the Scots army with such clearness that a picture or diagram would not have improved it. Taking up a slightly inclined plane, Wallace drew up his small body of mounted cavaliers in the rear, and distributed the foot-men into circular clumps. In each circle the men knelt down—those on the outer rim at least—and held their lances obliquely erect; within the circle of lancers were the bowmen. The arrangement, save that it was circular instead of rectangular, was precisely the same as the "square to receive cavalry" which has baffled and beaten back so many a brilliant army in later days. It seemed at first as if Wallace's circles were to have a similar history. The first efforts against them were ineffectual, and the horsemen seemed shy of charging the thick clumps of spears. The inequality of force was too

[1] Walsingham, 75.

great, however, to be neutralised by skill. The charges of Edward's mounted horsemen at last crushed the circles, one after another, and when this was done the rest was mere rout and slaughter. Wallace managed to carry a small body out of the field, and marched to Stirling. They found it useless to attempt to hold the place, so, destroying what they could, they marched on no one knows whither, the commander and his followers alike disappearing from the history of that war.

The victory was a profitless one except for its depressing influence on the spirit of the Scots. Edward had not prepared himself to keep an army in a country so utterly stripped of food. He swept the country to the right and left, accomplishing nothing but destruction. The population appears to have been drawn off beyond the Forth. What Edward might have found there we do not know, for he did not venture northwards; and he was at last compelled to drag his starved army back to Carlisle.

From this time we hear no more of Wallace concerning himself in active life in Scotland. Much has been said of the cabals and aristocratic jealousies which drove him from the office of guardian, but in reality the whole affair is a secret to the present day. The guardians were kept up as an institution in John Comyn of Badenoch and John de Soulis. The tendency of events was deepening the gulf between England and Scotland, and rendering double allegiance ever more hopeless. Hence the great feudatories who had domains in both countries had to make their selection so as to hold by the one and abandon the other, but they naturally took the alternative gradually and reluctantly.

The romancers after this time send Wallace to France, where he comes out as the true knight-errant in feats with lions, robbers, and pirates. Here, again, some vestiges of evidence lately found tend to confirm the material fact that he sojourned in France. In a mere list of documents found in his possession when he was carried captive to London, was a letter of safe-conduct to him from King Philip of France.[1] While he was in power, indeed, Wallace kept a sort of ambassador in France in William Lamberton, Bishop of St Andrews. Lamberton was, in fact, his own bishop. When the see became vacant, William Comyn was the candidate favoured by King Edward; and as this rendered it necessary that the national party should have another person, Lamberton was made bishop. His acceptance was one of the charges brought against him by King Edward in an ecclesiastical process at the Vatican, and other charges set forth that the bishop had gone to France, where he advocated the cause of the rebellious Scots and excited the traitor Wallace by prospects of French aid.[2] That Wallace should have had a safe-conduct to France is not sufficient to inform us that he went there and used it, but the probability that he did so is much strengthened by finding that he got credentials from France onwards. A very minute scrap among documents in the Tower of London, without date, was found to be a letter by Philip, King of France, to his representatives at the Court of Rome, recommending to them his good friend William le Walois, of Scotland, Knight, and desiring them to do what in them lay to expedite the business

[1] Palgrave Documents, cxcv.

[2] Ibid., cxvi.

he had to transact at the Court of Rome.[1] Both in the French and in the Papal Court there was then a quantity of diplomatic business in progress regarding Scotland. We shall hear more of it hereafter; but it is necessary in dealing with it to leave out the name of Wallace, regretting that there is nothing to inform us distinctly whether the scraps of evidence alluded to are or are not connected with eminent diplomatic services performed by the popular hero.

Early in the year 1298 a souffrance, as it is called in Norman-French, had been negotiated between England and France. The word is translated as a truce, but it means something very different from a modern truce. It was a transaction between governments, while a truce is merely a transaction between armies—a promise to suspend hostilities for a time, and until some affair should be transacted, such as the burial of the dead during a siege, or the reception of instructions from headquarters. The souffrance was more of the nature of a peace at the present day; and the reason why of old it was treated as distinct from a peace was this: The wars of the time generally arose from questions of succession or of feudal superiority. When it became desirable to cease fighting, while yet neither side was prepared to give in to the other, there was an agreement to give up fighting in the mean time, reserving all rights entire for future discussion. A souffrance or truce of this kind might last for centuries.

There was thus a virtual peace between England and France, which specially included the allies of each. Philip complained that it was not faithfully kept, in as far as King Edward held in bondage a good ally of

[1] Wallace Papers, 102.

France, John, King of Scotland, along with several persons of rank and consideration, his subjects. There was a solemn conference about this matter, which appears to have been held at Edinburgh while Edward was retiring southward after his victory at Falkirk.[1] Edward maintained that the French alliance had been renounced by the Scots and their king; and if he could not establish this point in diplomatic law, he could show that he had spared no pains to accomplish it. The renunciation was conspicuous, not only in the submission of Baliol when he was finally carried away, but in the acts of homage which Edward exacted from people of all ranks in his great progress through Scotland after the capture of Berwick. Each of these was separately recorded and kept; and if a bundle of such parchments could have accomplished what was wanted, the thing had been done.[2]

The King of France, however, thought that the annulling of treaties must lie with those who had contracted them. He had a treaty with the King of Scots; and if that king, without making him a party, had engaged with another, it was because he was in the power of that other. On the other hand, the King of France did not admit that Edward's feudal claims authorised him to maintain that the King of Scots, being his vassal, could not be a party to a treaty. There were claims of superiority of all kinds bandied about among crowned heads at that time; and where one king found another reigning over an estab-

[1] "Actum in castris seu tentoriis dicti regis Angliæ prope Castrum Puellarum in Scotia, quod vulgariter nuncupatur Edinbourg." The date is 1298, and the 26th year of Edward I., which brings it after 20th November.—Fœdera (Record edition), i. 898.

[2] See the specimens printed in the Ragman Rolls.

lished kingdom, the two were entitled to hold diplomatic relations. King Edward had to let the question hang over from the force of circumstances. We shall see that he was making preparations to crush Scotland by an irresistible army, but was so impeded by one difficulty after another that he could not make an effectual beginning to the project. He received in the midst of his struggles a courteous communication from the new guardians of Scotland, setting forth that they intended to maintain the truce, and expressing a hope that he would do the same. Through the tedious diplomatic documents which were working on to a general peace, we still find France insisting on the truce; and in the autumn of 1300 we find King Edward agreeing, at the solicitation of the King of France, to continue the truce till Pentecost. This document keeps clear of the usual phraseology about the rebellion of the Scots against their lord superior, but at the same time it carefully avoids any acknowledgment of Scotland as a state or kingdom. The *gents d'Escoce* are the persons to whom the benefit of the truce is conceded.[1] At a conference in January 1302, between representatives of England and France, the French insisted on the English abstaining from hostilities in Scotland, and proposed that their seizures or acquisitions there should be placed in the hands of the King of France for future disposal.[2]

In the oscillations of this diplomacy, to whatever weight Scotland might give to France there was a

[1] Fœdera (Record edition), i. 924.

[2] Ibid., 937. The conference was held in Scotland at a well-known place—Linlithgow. The king had been able to carry his army so far, and established his court there for some time.

balance on the other side. King Edward had a league with the Flemings. These were rising rapidly in wealth and importance by their industry. To a chivalrous monarchy like that of France, an independent state strengthened by such resources was a neighbour not to be endured, and cruel efforts were made to subdue and annex Flanders. But in the stout Flemings defending their liberties King Edward found just the kind of aid that King Philip sought in the Scots. Such were the allies about which the two great powers ever pressed each other. If Edward was not bound to observe the truce towards Scotland, then Philip was released from any obligation to spare Flanders. After long treating, the two great powers found that they could only come to terms by each shaking off its ally. In reading through the articles of perpetual peace and friendship of 1303, commonly called the Peace of Paris, nothing will be found about allies, or about Scotland or Flanders.[1]

There was a deputation attending to the interests of Scotland at the Court of France, including Bishop Lamberton, the Steward of Scotland, and other eminent persons. They were no doubt somewhat disturbed when they saw this treaty; but they wrote to the guardians and community of Scotland to be of good

[1] There are carefully prepared conditions in the treaty, which go, among many other things, to show the extreme importance attributed to all feudal questions of superiority and homage among princes. In terms which leave no room for the supposition that King Edward would keep any obligation from which he could escape by a quibble, it is stipulated that he shall perform his homage for Aquitaine ever duly, and without delay. He is not to be excused from personal attendance, unless upon the ground of sickness or storms at sea, or any other sufficient excuse, the ground of which is distinct and notorious; and if he have a personal excuse for absenting himself, his son must come in his place.

cheer—King Philip's words were yet encouraging, and he taught them to expect that he might influence King Edward to offer terms to Scotland. But should King Edward's heart, they say, be hardened like Pharaoh's, they hope their countrymen will hold on manfully and unanimously, trusting in the God of battles, and resisting to the last; and they throw out a few words of comfort and encouragement in telling of the fame their countrymen had acquired far and wide over Europe by their achievements in the war with England.[1] There is more diplomacy for some time between Scotland and France: the alliance has not been cancelled, but France does not find it convenient to act on it.

There was another foreign influence at work on the destinies of Scotland. The view to be taken by the Court of Rome, about the struggle and the merits of either party, was of much moment. About the policy which the Popedom had pursued for some centuries in the quarrels of the European powers, there is a popular notion that it was merely a development of the propensity of powerful priests to meddle with matters out of the line of their spiritual duties. It fell to the popes, however, to perform onerous duties in national diplomacy. The system of rights and obligations, called the law of nations, and latterly, international law, had the anomalous quality of being a code, obligatory among the states of Europe, which yet there was no supreme head to enforce. It was a law punishing and protecting without any court to enforce its decrees. It had not been thus, however, in its origin. This law of nations—the diplomatic code of Europe—

[1] Fœdera (Record edition), i. 955.

was founded by the Empire, which had power to give it force; and it has existed down to the present day as a tradition sanctioned by immemorial usage, and the deference of public opinion throughout the civilised world. When the secular side of the Empire was broken up, there remained yet the ecclesiastical side, with a powerful and intelligent official staff, penetrating into the farthest provinces of every country in Europe. A great deal of the work of the Empire at large fell to this department. It was the most natural of all alternatives — one official organisation being broken up, here was another so close as to be almost identical with it, not only complete, but in the best working order. Thus many departments of secular business fell to the Church—among others, in several countries, the organisation of those municipalities which were so valuable a member of the old Imperial system. As we have already seen, the Church supplied an organisation for keeping up the old civil law throughout Europe—an operation less remarkable in those countries where it quietly prevailed than in England, where the common law gave it continual battle.

In the same way the organisation at the Papal Court kept up the old *comitas gentium*—the diplomatic relations which held Europe together. The system was not so much a creation of aggrandising, ambitious churchmen, as the result of a pressure from those forcing business into the holy court. It was a vast establishment thronged by greedy, ambitious suitors of all nations and languages; and thus sought and courted, it could not fail to be powerful. Perfect justice was no more to be found there than elsewhere among

human institutions. Influences were at work commensurate with the greatness of the stakes at issue. It would often depend on something other than its goodness that a cause was successful.

The cause of Scotland must have been well supported at the Court of Rome, for a decided impression was made. Something was probably due to a pretty loud participation in the national wailings, by a body who knew how to be heard at Rome, and whose voice would find ready sympathy there. The Church of Scotland was in danger—or rather the churchmen. King Edward thought it would be in favour of loyalty to the house of Plantagenet if the ecclesiastics serving in Scotland were Englishmen. The view was no doubt a sagacious one, provided it could be got into practical operation. The steps towards it, however, gave alarm. In the winter of 1297 he had sent instructions to Brian Fitz Allan, whom he had appointed governor, that on the occurrence of any ecclesiastical vacancy of no higher value than forty merks annually, he should present to it some member of the Church of England; or if that did not suit, any other discreet person, provided he were an Englishman.[1] It is to be inferred, that to more valuable charges the king would himself present. Lamberton, who had to fight for his bishopric, and would be driven from it if the English rule were resumed, had been consecrated by the Pope. He had gone to France, and may have gone to Rome, in the national cause; and his reception there as a prelate would make the adoption of his cause a matter of consistency. There is so far a probability of Wallace also having been there, that, as we have seen, he obtained

[1] Fœdera (Record edition), i. 877.

credentials to the Court of Rome; and it does not weaken this supposition that King Edward, in his memorial to the Pope, declared his Holiness to be under the influence of certain "enemies of peace and sons of rebellion" residing at Rome. According to the later chronicles, the authorised emissaries of Scotland were Bernard Bisset, William Eglesham, and William, Archdeacon of Lothian. Whoever were the working men, they achieved the first great point in all such contests—they made those who had the duty of getting up the details of business at the Court of Rome thoroughly acquainted with the whole case for Scotland against the English claims.[1]

In the summer of 1298 there came to Edward from Rome a preliminary hint—a paternal admonition concerning charges against him of unjust aggression on Scotland—a document adorned by precepts, pointing towards justice and peace and loving-kindness among Christians. This was followed by another more to the point. It charged King Edward distinctly with a violation of the rights and liberties of the kingdom and Church of Scotland, done under the false pretence of a right of superiority over that kingdom. It told him that he had no excuse, because there were palpable events of recent times incompatible with any such right of superiority. With great distinctness these events were set forth: how when Henry, the father of Edward, got assistance from his son-in-law, the King of Scots, careful stipulations were made that the

[1] In the Scotichronicon the instructions to the representatives are given in full; but if this version of them is correct, it is clear that the representatives, who took a different course, were much better men of business than their instructors at home.

assistance was given of favour and friendly alliance, not of obligation; and when Alexander did homage to Edward himself for Tyndale and Penrith, care was taken to mark the limitation of the homage. King Edward's failure to take the guardianship of the infant queen on the death of King Alexander—his duty if he really were superior of his realm—was strongly put; and the details of each precedent were given in the Papal bull with a clearness and precision which could not have been excelled by any draftsman in Edinburgh.

There was a feature in this document which has created some excitement among historians. The Pope declared that the kingdom of Scotland belonged, and had of old belonged, to the Church of Rome. This has been dealt with as an impudent attempt on the part of the Pope to drive the plunderer from the prey, in order that himself might take it. But there was no intention to imitate King Edward by annexing Scotland, either as a feudal dependency or an absolute dominion, to the Court of Rome; such a project was not within the bounds of the practicable. The meaning of the claim was, that Scotland was a free sovereignty, with no subjection save such as all sovereigns owed to the Church of Rome—a subjection which that Church was of course apt to interpret more widely than her subject sovereigns would admit. Finally, the Pope told King Edward, that if he believed himself to have any rights over the kingdom of Scotland, he was free to prove them at the Holy Court, lodging there all the laws, writings, and other things on which he founded, and his claims would have full consideration as those of a valued son of the Church. This was quite in ac-

cordance with that supervision of the diplomatic relations of the European powers which had fallen to the Church, or rather the Court of the Church, at Rome. A great country desirous of crushing a small one gets up a case in its own favour, and acts on it. But before the old established landmarks of the European powers are thus broken up, the Court of Rome chooses to examine the case, and to give a judgment, to be carried into effect by interdict or other ecclesiastical process. It may not have been a sound philosophical system, but it put a stop to a world of oppression, and prevented the peace of Europe from being so often disturbed as it would have been by rapacious despots, gratifying to the utmost their lust of power.

The Pope sent his bull to Robert Winchelsea, Archbishop of Canterbury, with instructions to deliver it into the king's own hand. Never was prelate more hardly beset. There was all the unpleasantness of conveying an unpleasant message to a man not blessed with a placid and forgiving temper, and there were the difficulties of the journey—for King Edward was away at the northern extremities of his kingdom menacing Scotland. The archbishop recounted all his difficulties and dangers to his master, and we thus get a glimpse of some of the physical and social conditions caused by the war. After having consumed several days in preparation for his formidable journey, he set off, apparently in the summer of 1300, and reached Carlisle in twenty days. There, to his dismay, he found that the king had gone with his army into Galloway. He met with some discreet laymen, and with clerical persons worthy of all confidence, from whom he found that the country swarmed with armed Scots; and even

supposing him to get through with safety, there was no food in it for his retinue. No one, not even among the clergy, was zealous enough to carry a message intimating his arrival, or even endeavour to procure a safe-conduct for him. He fell at last on a shrewd device. Remaining at Carlisle, he sent two of his retinue by sea, who reached the army of Edward with much risk of capture, and with like risk brought answer to his question how he could with safety endeavour to get an audience. The answer sent him was, that the king could suggest no better way than this: the queen and he were on some future day to have a meeting, and the bishop might join escorts with her.

The prospect of this arrangement, however, was indefinite, and the inducements to wait on were extremely meagre; for he mentions that, during nearly six weeks, while his messengers were absent, having to be so near the border of Scotland, he was glad to obtain sufficiency without aspiring at abundance of food. He heard at last that the king had come back to the Castle of Caerlaverock, which had some time ago been taken. He then managed to get himself and his equipage conveyed across the Solway at low tide, encountering more peril than he seems to have known of. And so the triumphant conclusion of his adventures was, that he unexpectedly came upon the king at dinner on the Friday after the Feast of St Bartholomew the Apostle, or towards the end of August.

He was called next day to a solemn audience, where the king was surrounded by the crowd of nobles and knights who, as we shall see, had attended him to the siege of Caerlaverock. The messenger read his instructions, and then reverently handed the admonitory bull

of his Holiness to his Majesty. What we would expect in ordinary court usage is, that such a document should be passed on to a secretary to be kept for private perusal; the king, however, directed the document to be publicly read, and then gave instructions for translating it into French. The messenger was then told that this affair of Scotland was one of those in which it was necessary to consult the chief persons, ecclesiastical and temporal, of the kingdom; that although several of these were present, many were absent; and when there had been due and full deliberation, then would the king send by a messenger of his own an answer to his Holiness.

The first step taken was to let loose upon the Court of Rome the wrath of the English temporal barons. Nothing better served to rouse them into union and patriotic action than resistance to the encroachments of the Church, and they sent to Rome a memorable protest against this attempt to interfere with the feudal and constitutional prerogatives of the crown of England. King Edward was in the mean time anxious to get up a convincing case in favour of his claims. He had already, as we have seen, obtained materials from the religious houses, but he wanted more, and their records were again ransacked. Rishanger, whose notes of what was passing are so valuable, was employed with other cunning scribes to bring the case to perfection. The result was a production, one of the most extraordinary, as a state paper, to be found on record, though people may be familiar with the great part of its contents in other shapes.

After setting forth that the right of superiority in the King of England over Scotland was undoubted

and notorious to all the world, and had been in active exercise by the removal and appointment of the rulers of that country at will—for the satisfaction of his Holiness, a brief narrative is put together to show the origin and antiquity of the right. It commences thus :—

In the time of the prophets Eli and Samuel there was a certain illustrious personage named Brutus. He had to abandon Troy after the destruction of that city; and taking with him a following of noble Trojans, the band discovered a certain island, then called Albion, inhabited by giants. These were all defeated and slain by the Trojans, who, in honour of their chief, called the island Bruton or Britain, and they built the town of Trinovantum, now called London. Brutus had three sons, on whom he settled his possessions. To the first-born, Locrin, he gave that part of Britain called England; to the second, Albanac, he gave Albany or Scotland; and to the third, Camber, he gave Cambria or Wales. The important point to be kept in view at this stage is, that it was the invariable practice of succession in Troy that the eldest and his line should rule over the younger brothers and their descendants. There were invasions of the new territory and other causes of disturbance, the particulars of which are set forth with a minuteness that seems to challenge criticism; but the result is, that as Locrinus was supreme over his brothers at the beginning, so did his descendants continue to be supreme over all other rulers in Albion. We come at last down to an epoch illustrious throughout the world by the deeds of the great King Arthur, who, indignant at the turbulence of the Scots, signally punished them, displaced their king, and appointed his follower Anselm

to rule over them; and this Anselm did due feudal homage for Scotland to his lord superior, King Arthur, at a renowned festival held at Caerleon.

It is impossible to estimate the weight attributed to the next precedent, without remembering that King Edward was deeper even than his age in reverence for the later saints and their miracles. King Athelstane of England had just subdued a rebellion in Scotland under the auspices of St John of Beverley. Having finished his work, he prayed, through the intervention of the same St John, that it might be granted to him to receive a visible and tangible token, by which all future ages might be assured that the Scots were rightfully subject to the King of England. His prayer was granted in this way: Standing in front of one of the rocks at Dunbar, he made a cut at it with his sword, and left a score which proved to be the precise length of an ell, and was adopted as the regulation test of that measure of length. This miracle was attested by a weekly service in the church of St John of Beverley. He was perhaps the most powerful miracle-worker of all the English saints, and his triumphs in this line are amply commemorated by Bede. King Edward and some of his advisers would devoutly believe that this story of the miraculously-created ell-wand standard would do more for his cause than his long array of historical precedents; but it may be questioned if the acute scribes working at the Vatican conceded so much influence to it, for they were apt to be perplexed and overburdened by such miraculous solutions of temporal difficulties.

King Edward's pleading goes on after this rather prosaically. The story of Edgar's boat rowed by a

crew of kings on the Dee comes in, and then the successive events which have been alluded to in passing as points in the dispute. After the Conquest the acts of homage already referred to are all set forth as done for Scotland. Perhaps the most flagrant feature in the whole case is where the Treaty of Brigham, in which the Scots stipulated with so much suspicious precision for all the specialties of a separate nationality, is represented as a great national act of homage, in which the several Estates of Scotland, moved by a sense of duty, did of their own accord humbly approach the lord superior and devoutly tender to him their fealty and homage. Next comes the competition and the decision, followed by Baliol's unnatural rebellion. Here the case is strengthened by an indignant commentary on those outrages on the inmates of religious houses, male and female, which were so eloquently charged against the Scots soldiers by the English chroniclers, as we have seen. Nothing was said to the invitation to lay before the Holy Court the proofs of any claim which King Edward asserted over Scotland. After being finally adjusted, the case for the crown of England, bearing date the 15th of May 1301, was transmitted to Rome in the hands of an embassy suited to the solemnity of the occasion.

King Edward had meanwhile been strenuously working by special summonses, general commissions of array, and in other ways, to gather an army sufficient for an effectual and final invasion. Of the first blow he was enabled to strike—the reduction of the Castle of Caerlaverock, in Dumfriesshire—we are so fortunate as to have an extremely instructive narrative. The accounts of the earlier sieges of strong places of more

historical eminence—Edinburgh, Stirling, Roxburgh, and Dundee—convey the impression that they were heterogeneous works, with little improvement on the old mounds of stone or earth; and it is in harmony with this supposition that no vestiges of them now remain.[1] Caerlaverock was a fine specimen of the later stage of the new system of fortification brought in by the Normans, and already spoken of as thickly strewed over England. Its strength was in towers of fine ashlar stone-work, extremely thick, with flanking towers to command all the wall-plates. This siege has a special historian, who describes the castle as shaped like a long triangular shield, with a round tower at each of the obtuse angles, and two round towers flanking the gate at the acute angle. The building had subsequently an eventful history, and we are told of heavy injuries to it, and even total destruction, yet the triangular shape is still retained by the older part; and the gateway, with its double tower, has all the appearance of having been built in Edward I.'s time.

We are told that in the year 1300, on St John's or Midsummer Day, King Edward held a court at Carlisle, and ordered a general muster against the Scots. The days were long and fine, says the chronicler, and all the mountains and valleys resounded with the neighing of horses, and were covered with waggons, sacks of provisions, tents, and all the other furnishings of war. The assemblage of the chivalry of England was almost unexampled in brilliancy, and the chronicler has pre-

[1] If the remains of Dirleton be a portion of the works besieged by Bishop Beck, they must have been about as hard work as Caerlaverock, but we have not a distinct enough account of that siege to know.

served a roll of the names and heraldic achievements of the leaders, which has been a mine of wealth to adepts in heraldry in the present day.[1] The force was divided into four battailes or squadrons, and of the leaders and principal knights in each the historian of the siege tells us what they were in race and chivalrous renown: thus, "Edward, King of England and Scotland, conducted the third squadron at a little distance, and brought up the rear so closely and ably that none of the others were left behind. In his banner were three leopards courant of fine gold set in red, fierce, haughty, and cruel—thus placed to signify that, like them, the king is dreadful, fierce, and proud to his enemies; for his bite is slight to none who inflame his anger—not but his kindness is soon rekindled towards such as seek his friendship or submit to his power." "An auxiliary force was commanded by Anthony Beck, Bishop of Durham, ever at hand when there was fighting." He is described as "the most vigilant clerk in the kingdom—a true mirror of Christianity."

The historian admired the strength and beauty of the castle, with its walls and ditches, and saw it was not to be taken like a chess rook. He describes the cutting down of trees and brushwood, and the building of huts to lodge the besiegers, and the arrival of vessels in the Solway Firth with the besieging engines. The foot-men were sent forward to begin the siege. "Then might be seen stones, arrows, and quarreaus to

[1] 'The Siege of Caerlaverock, in the 28th Edward I., A.D. MCCC., with the Arms of the Earls, Barons, and Knights who were present on the occasion,' by Nicholas Harris Nicolas, Esq. He prints the Norman original with a translation, decorating the whole with facsimiles of the achievements. There is another edition by Thomas Wright, 1864, blazoned in colours.

fly among them; but so effectually did those within exchange their tokens with those without, that in one short hour there were many persons wounded and maimed, and I know not how many killed." The rest became excited, and a general attack was made; the heaviest engines were worked in throwing stones, and when there was a good hit a great shout arose among the host. This seems to have gone on for a day or two, until three other engines were brought, "very large, of great power, and very destructive, which cut down and cleave whatever they strike—fortified town, citadel, nor barrier, nothing is protected from their strokes." The Knight of Kirkbride excited the admiration of the historian: "Many a heavy crushing stone did he of Kirkbride receive, but he placed before him a white shield with a green cross engrailed. So stoutly was the gate of the castle assailed by him, that never did smith with his hammer strike his iron as he and his did there. Notwithstanding there was showered upon them such huge stones, quarrels, and arrows, that with wounds and bruises they were so hurt and exhausted that it was with great difficulty they were able to retire."

Where there was such a crowd of lords and knights, that among them the chronicler blazoned more than a hundred achievements of illustrious houses, we must infer that the ordinary armed following was large. It was, in fact, with an army gathered for the conquest of Scotland that Edward besieged this remote castle on the Solway. When surrender was announced by a flag of truce, and the great besieging army took possession, the number of the surrendering garrison seems to have amazed the victors;—as the historian

says: "And this is the number of those who came out of it—of persons of different sorts and ranks—sixty men, who were beheld with astonishment; but they were all kept and guarded till the king commanded that life and limb should be given to them, and ordered to each of them a new garment." Nothing should be said to diminish the warlike merits of the unknown sixty; but the moral of the siege of Caerlaverock is, the potency, in the hands of resolute men, of the new system of fortification, which was just then crossing the border and appearing in Scotland.

Immediately after the capture of Caerlaverock came the consent to the extension of the French truce to Scotland, and the arrival of the Archbishop of Canterbury with his message from the Pope, as we have seen. The truce expired in the spring of 1301. At that time King Edward seems to have had the range of Scotland south of the Forth, for his writs are dated from various places there; but the events of the following year show that the Scots, who had kept the northern districts in their hands ever since the battle of Stirling, were pressing southward. In the autumn of 1302, an English army was sent into Scotland under the command of John de Segrave, appointed governor of the province. He was accompanied by an important person, Ralph de Manton, or Ralph the Cofferer as he was called, because he was paymaster. We are told how this army, feeling in great security, was broken up into three divisions near Edinburgh, one under Segrave himself being posted at Roslin. All had been in winter quarters; it was yet no farther on towards spring than the month of February, and no warlike operations seem to have been expected. One day, as the English

chroniclers tell us, a boy ran into the camp, telling, that from the top of one of the high banks abundant round Roslin, an army might be seen close upon them. It had come from the uplands of Peebles and Lanark, and fell on Segrave by surprise. He was wounded, and made prisoner along with twenty knights. Another of the divisions came up and released the captives, but seems rather to have suffered than to have inflicted punishment. The services of the third division, indeed, show that the others were in flight. This division had been hearing mass, undisturbed by the double battle, and after it was over were enabled to check the retreat of the other two divisions and punish their pursuers. Ralph the Cofferer was among the slain.

Any account we have of this affair is meagre and indistinct. We must depend on the English chroniclers; and all we can distinctly carry from them is, that their king's army was surprised, and had the worst part in the conflict.[1]

Into some old accounts of the battle of Roslin it has found its way that Wallace was present and commanded the Scots force. It may have been so, but it is not sufficiently vouched to be admitted as a historical fact. The Scottish chroniclers, Wyntoun and Bower, articulate this affair into a great battle and an eminent victory gained by the Scots; but as they accompany it with acts of extreme cruelty, their narrative of triumph may be abandoned without any sacrifice of the national honour.

[1] Hemingford, i. 199.

CHAPTER XXII.

War of Independence to the Death of Edward.

THE PREPARATIONS FOR FINAL SUBJUGATION—THE MARCH—THE SIEGE OF STIRLING CASTLE—INCIDENTS AND INFLUENCE OF THE SIEGE — ATTEMPT AT A MODERATE AND CONCILIATORY POLICY—AMNESTIES—WALLACE TO BE AN EXCEPTION—NOTICES OF HIS MOVEMENTS—HIS CAPTURE—CARRIED AS A TROPHY TO ENGLAND — PECULIAR POLICY IN THE FORM OF HIS TRIAL —HIS EXECUTION—ITS EFFECT ON HIS COUNTRYMEN—ORGANISATION OF SCOTLAND—INCORPORATIVE UNION—REPRESENTATIVES OF SCOTLAND IN A BRITISH PARLIAMENT—REVISAL OF THE LAW—THE GREAT ORDINANCE OF KING EDWARD—PREPARATIONS FOR AN INTERNATIONAL PARLIAMENT AT CARLISLE — THE NATIONAL FEELING — EDWARD'S IGNORANCE OF IT—BRUCE'S FLIGHT FROM LONDON TO SCOTLAND—A NEW CHAPTER IN THE WAR OPENED—ACCOUNT OF BRUCE'S POSITION AND CLAIMS—HIS ALLIES—THE SLAUGHTER OF THE RED COMYN —THE ENTHRONING OF BRUCE AT SCONE—EDWARD'S PREPARATIONS—HIS MARCH—HIS DEATH.

In the spring of 1303, King Edward, free of all his embarrassments both abroad and at Westminster, was prepared to deal with Scotland once and for ever. He was at the head of a great army; there is no note of the numbers, but it is spoken of as beyond all possible resistance. There was in reality no resistance; and it is noticed, as an interruption to the king's progress at one point, that the Castle of Brechin held out until

its gallant commander was killed on the wall. From the English chronicles we gather that this triumphant procession reached Caithness, and the same authority says, with the utmost brevity, that the army went burning and devastating; yet, though this is said from the side of England, it is insufficiently supported.[1] Had there been much wanton cruelty or destruction on Edward's march, it would have left its mark somewhere in contemporary documents: he seems, indeed, to have had an army too strong and well appointed to require to act the marauder; and subsequent events show that it was not then his policy to exasperate the people. We hear of no attacks on stragglers—no commotion or bloodshed anywhere.

This was the second unresisted march which Edward had made over Scotland; and indeed the Scottish War of Independence, when once fairly commenced, becomes remarkable, among others with a like object, in the absence of all "teasing," as old soldiers used to call the petty conflicts which rise out of excitement and combativeness without giving a prospect of definite results. As the great king marched through the land with his fine army, it was not the time for resistance—this must wait its proper opportunity. Stirling Castle was the only strength that held out. King Edward passed it by both in going northward and in returning, reserving it to be dealt with afterwards. He made his headquarters at Dunfermline, and he is charged with the destruction there of a noble building—the Benedictine monastery—because the Scots had desecrated it by holding their rebellious meetings within its walls. It was an act not consistent with his civil

[1] Hemingford, i. 205.

policy; but in a religious matter, such as the dealing with a consecrated building would be, no one could count upon King Edward. Meanwhile he established his court at Dunfermline, and held it there so securely, and with such open communication with England, that at last his newly-married queen, Margaret of France, could safely join him, making that progress northwards which, as we have seen, appeared to be the only opportunity by which Archbishop Winchelsea could fulfil the duty laid on him of delivering the Pope's admonitory bull.

Comyn, who acted as chief guardian, and the other leaders of independency, seem to have been able to keep free of the conqueror's path. They formed a project for helping the defence of Stirling Castle by guarding the Forth, after the example of Wallace. King Edward, however, flanked them by crossing the river, whether at the Frew or some nearer ford, and the Scottish troops dispersed, leaving Stirling Castle to defend itself. A sad interest surrounded this, the last spot of ground in all Scotland that did not belong to the invader. The castle stood a long and memorable siege. The obstinacy of the defence is echoed by the English chroniclers in their vauntings of the valour, skill, and engineering resources of the besiegers, and their exultation at the final capture. From their accounts of the siege we may infer that part at least of the castle works were on the new system of fortification. All novelties in the art of defence have their parallel in new systems of attack. When we hear of the throwing up of zig-zag earthworks by engineers working in ditches, we know that these are approaches to the low bastioned fortresses of the Vauban school;

and so when we find tall wooden towers erected, with machinery in them for casting missiles horizontally, we know that the tall buildings of the Norman school of fortification are to be attacked. Against these, with their thick walls of fine masonry, the old battering-ram of the Romans, made to drive a hole in a thin wall, was as harmless as a child's toy. The besieger had to meet his enemy aloft, parallel with the windows of his towers or with the roof, and only lofty piles with great projectile power could accomplish this. We are told that the stones or lumps of lead cast against the wall bounded back, leaving no mark, but those sent from above broke through roof and vault, and did vast mischief. Besides the strength of masonry, which was the sole difficulty at Caerlaverock, there was another in Stirling of a very formidable nature in the fortress standing on the edge of a steep rock. The engines brought up were marvels in their day for ingenuity of device and weight of metal. There was one that the chroniclers say could hurl stones of from two to three hundredweight.

King Edward was now sixty-five years old, yet his impetuous and determined spirit drove him to perpetual activity and personal prowess in pushing this siege. He was repeatedly hit, and the chronicles record with reverence the miraculous interventions for his preservation. On one occasion, Satan had instigated one of the Scots to draw an arblast and aim an arrow against the Lord's anointed, who was riding exposed in the front. A devil's angel sped the shaft in so far that it pierced a chink of the mail, but then one of heaven's angels came to the rescue, and stopped it from penetrating the sacred body of the conquering

king—for it is curious to observe that it is all along, not from the justice or holiness of his cause, but from his success as a conqueror that these chroniclers treat his cause as a holy one, and denounce the resistance it met with as unholy rebellion.

Stronger evidence still of his fixed determination to leave no means untried for the reduction of the castle is his bringing the lead from the roofs of churches and religious houses in St Andrews and Brechin to be made into balls to be cast from his engines. It was sacrilege, as he knew and keenly felt, but it was done. The deed hung afterwards heavily on his conscience. Had we it on no better authority than the chroniclers, the deep religious enthusiasm of King Edward might make us doubt the act; but curiously enough it is confirmed by the record of the liberal restitution which he afterwards made to the religious establishments he had so despoiled in his hour of emergency.[1]

Olifant, the governor, and his garrison, stood out against this desperate and unceasing work for more than three months. Yet the immediate presence of starvation, rather than the success of the assailants, seems to have driven them to ask for stipulated terms. The request was refused; they must surrender at discretion. When the garrison came forth they were only 140 men. Some twenty-four of superior rank appeared before the conqueror half naked, with ropes round their necks, and performed the humiliating

[1] In the Liberate Roll there is an order to pay a sum amounting in all to ninety-six pounds and fifteen shillings to the Bishop of Brechin and the Prior of St Andrews: "Pro plumbo quod dextrahi fecimus tam de ecclesiis quam de aliis domibus ipsorum Episcopi et Prioris apud Breghyn et Sanctum Andream."—Cited Scalacronica, Introduction, xvii.

ceremony exacted at that time from conquered garrisons.

With true Norman pedantry, a notary public of the holy Roman Empire docqueted the act of submission as having taken place before himself and certain famous witnesses on the 24th of July, and on the eve of the Feast of St James the Apostle, in a valley, through which passed a road leading to a gate in the Castle of Stirling, within the kingdom of Scotland and diocese of St Andrews.[1]

A touch of generous sympathy with the courage and dutiful endurance of these men seems to have reached the heart of the victor, and instead of ordering them for death, as all seem to have expected, he dispersed them in English prisons. King Edward felt so much beholden to those barons who had borne the brunt of the siege that he made a roll of merit, containing the names of Warenne, Lincoln, Gloucester, and others, all of whom were invited to make application to him for some special gift, or other reward for their services.[2]

But in truth his leniency to this garrison was one of the examples of a new policy towards Scotland which experience had taught him. Strengthening his hand to the utmost, he would yet lay it on gently, if not winningly. He was no Nero or Domitian, luxuriating in the mere lust of power, and besotting himself in bloody orgies. His ambition was to be an organiser and reformer—in his own way a benefactor to his race—and this passion was the real source of his severities. He saw before him the splendid vision of the British

[1] Fœdera (Record edition), i. 965. The chief accounts of the siege are to be found in Hemingford, Matthew of Westminster, and Langtoft.

[2] Palgrave's Illustrations, cxxviii, 275.

Isles under one scheme of strong orderly central government, blessing all classes of the community; and his fury when thwarted—his rage against the obstinate self-willed barbarians who baffled his wise projects—drove him to cruelty. He had now found that his projects, so far as Scotland was concerned, would thrive better under a milder policy, and, with one grand exception, he resolved to conciliate those even who had been in arms against him.

Before Stirling Castle was taken there had been a regular capitulation of the government and official staff who had professed to rule Scotland in the name of King John. It was solemnly ratified, in the presence of certain commissioners from the King of England, at Strathorde on the 9th of February 1304. The names in this treaty deserve note as being those of the chief persons belonging to the Norman or Normanised aristocracy, who had been induced to cast their lot into the popular cause. They were Comyn, Lord of Badenoch, the acting guardian and governor, and Sir John Soulis, the Steward of Scotland, Wishart, Bishop of Glasgow, David de Graham, Alexander de Lyndesey, and Simon Fraser. These were to retain their lives, liberties, and estates; but to each there was assigned a nominal punishment, generally a short exile on parole—it was a mere mark put upon them as rebels received to mercy. There was one great exception—William Wallace, who was to remain at the king's will and grace. Whether the others who were parties to the transaction knew what this meant, it is impossible to say.[1] Nor can we tell whether, if he had deli-

[1] "Et quant a Monsieur Guilliam de Galeys est acorde qil se mette en la volunte et en la grace nostre Seigneur le Roy, si lui semble que bon

vered himself up and sought mercy, he would have found it.

Those who were thus received to mercy, even to favour, had thoroughly committed themselves in arms —in rebellion, as it was counted—against the king. We must go further, therefore, than any question about the mere extent of personal criminality attributed to each. The men belonging to the class of Norman barons had yielded to temptation and gone over to the popular cause in Scotland, instead of holding by their natural lord. But in feudal notions there was some palliation for what they did. They had lost the protection to which they were entitled in return for the fealty. The popular party had virtually taken Scotland from the hands of Edward, and their interests lay with the power that could command their estates. Now the power of Edward was effectually restored, and they might be counted on to return to their natural position. Wallace, on the other hand, was the one great representative of the popular nationality, the real difficulty with which King Edward felt that he had to deal in Scotland. He was going to deal with it moderately and leniently, but he would show, in the first place, a terrible warning to those who might obstinately stand in the way of his projects.

Whether Wallace had been absent in France or Italy soon after the battle of Falkirk, he was in Scotland during these proceedings. There are faint traces

soit."—Ryley's Pleadings in Parliament, where the original document is printed as "Forma pacis Scociæ in adventu Johannis le Comyn et aliorum," 369-371. Some of the papers connected with the negotiation are given in Palgrave's Illustrations, p. 203. They bring in two other names of persons admitted to terms—Thomas de Bois and Sir John Mowbray.

of his keeping to inaccessible districts, with an armed following, and it is quite natural that some of his old followers should gather round him.[1]

The capture of Wallace was now the chief immediate object of King Edward. Presently after the siege of Stirling, we find him exhorting those who had just experienced his clemency to aid him in this good work, and promising that it would be profitable to him who should be successful, either in the shortening of his exile, or in some other shape.[2] Wallace was found in Glasgow. The chief person concerned in his

[1] There is a very tantalising reference to his movements in a collection of miscellaneous fragments from the Public Records of England, lately printed. It is called "Calendarium Genealogicum," and consists of such notices of persons and families, with their possessions, as are found in the proceedings of inquests on succession of heirs, boundaries of estates, and the like. Among these comes up, on Wednesday after the commemoration of the beheading of John the Baptist, in the 33d year of Edward I.—that is to say, in the beginning of September 1305—an inquest held at Perth by Malice, Earl of Strathearn, custodier of the northern districts in Scotland. This inquest appears to have been transmitted to some tribunal in England as the excuse of a certain Michael de Miggel, whose attendance was due, but not given. It was sworn to on oath that he had been seized by William le Waleys by force of arms—he, the said Michael, not consenting to such seizure. He had made his escape, and, in fact, got some two leagues off, when certain armed men, accomplices of the said Waleys, brought him back to their leader, who threatened to kill him if he attempted again to escape. He did in fact, however, again run away, and got three leagues off and more, when he was again caught, suffering great violence and injury from his captors; and on this occasion he verily believes that Waleys would have slain him, but for the intervention of some of his accomplices: so was Michael de Miggel prevented from attending according to his duty. The time at which he was thus seized is no otherwise indicated than by *dudum*, which may be translated lately. The question is, whether the *dudum* can be stretched more than seven years to reach the time when Wallace was in power, or must be held to refer to incidents a few weeks or months before the date of the inquest, which was held just a few days after Wallace's execution.—Calendarium Genealogicum, p. 703.

[1] Palgrave's Illustrations, cxxix., 276.

capture—the leader, as it would appear, of the party told off for that duty—was Alexander de Monteith. Of certain rewards given to the captors, he had the largest share. As his name was afterwards a common one in Scotland, it became part of the romance of Wallace's career that he was betrayed by a fellow-countryman and an old companion in arms; but Monteith was in the service of Edward: he held the responsible post of Governor of Dumbarton Castle, and it seems likely that he only performed a duty—whether an agreeable one or not.[1] The captive was taken southwards, and on the 22d of August carried through London, attended, like Caractacus in Rome, by a great crowd of citizens. He was secured in a house belonging to a citizen of London, William de Leyre—in Farringdon as it would seem.

A special commission was issued to five persons, three of them to be a quorum, to act as justiciars

[1] In the curious scraps preserved by Sir Francis Palgrave, there is a jotting, probably from some treasury memoranda or scrolls, of forty merks to the valet who spied out Wallace, and sixty merks to be divided among the other captors. Then follows: "De la terre, c'est a savoir C livres pour Johan de Meneteth," p. clxiv. and 295.

Langtoft says the actual securing of Wallace was effected through treason of John Short, his man. This may or may not be the name of the "vallet qui espia William de Wallaise" in the Palgrave Fragments.

This story of Langtoft's is the earliest in which the seizure of Wallace is attributed to treachery. With the chronicler, however, the event points a moral, in showing how it is the fate of murderers, thieves, traitors, and other criminals to be betrayed by their accomplices in crime:—

"A Jhesu whan thou wille hou rightuis is thi mede,
That of the wrong has gilt, the endyng may thei drede.
William Waleis is nomen, that maister was of theves,
Tithing to the kyng his cowen, that robber mischeves;
Sir John of Mentest served William so nehi,
He tok him when he wend lest, on nycht his leman li—
That was throught treson of Jack Short his man,
He was the enchesen, that Sir John so him nam."
—Langtoft's Chronicle, p. 329.

in the king's charge against William Wallace. They were, John de Segrave, Peter Maluree, John de Bacuelle, Ralph de Sandwyc, and John le Blound, Lord Mayor of London. He was put on trial in Westminster Hall, on a bench at the east end, as the chronicles say. They give, too, a story difficult to account for, how there was a wreath or coronet of laurels placed round his head on the occasion. The reason given for this is, that he had boasted in his triumphs that he would wear a crown in London—and so his boast was fulfilled. Anything more unlike the character shown in Wallace's career cannot easily be conceived. Yet, on the other hand, it is not consistent with the practical and grave character of King Edward that he should have played this fantastic trick without a sufficient reason.

It brings us closer to the point to look at the few traces we have of the accusation and judgment. A deep policy runs through the form adopted. The captive was not to be treated as a prisoner of war at the disposal of the executive; he was to be regularly tried on indictment as a subject of the King of England who had committed certain offences. He was not, however, permitted to plead to the indictment, because it was utterly adverse to the law of England that an outlawed person who had not been received to the king's peace should be permitted to plead. This method gained a judicial precedent for trying a native of Scotland before an English tribunal for offences committed in Scotland against the King of England, and it as completely stopped all inconvenient discussion as if the prisoner had been knocked on the head when he was taken.

In charging the prisoner with treason and rebellion against him, King Edward puts forth no better claim to his allegiance than that of conquest. He had subjugated by force of arms John Baliol, with his magnates, ecclesiastical and secular, and the whole community of Scotland; and after he had so conquered the country and reduced it to his peace, this Wallace, the prisoner under trial, had arisen and striven against him. It was further stated against the accused that he had worked to bring the community of Scotland under the authority of the King of France, whom they were to assist in the destruction of England. Then came a rapid denunciation of the raid into the northern counties of England, with the scandals of rapine, cruelty, and sacrilege with which, as we have seen, the English chroniclers burden it; and indeed it would seem that these chroniclers took their tone from the tenor of the indictment against Wallace. To these accusations the terms of the sentence respond in a shape as grotesque as it is horrible. The traitor's doom of disembowelling during life is awarded; and this reason is specially given for it, that it is to be symbolical, in the destruction by fire of those inner organs which prompted him to the sacrilegious burning of the shrines and reliquaries in which were preserved the body of Christ and the bodies and relics of saints.[1]

There was also to be a symbolical application of the parts of the body unburnt. They were to be distri-

[1] "Et postea pro immensa vilitate, quam Deo et sacrosanctæ ecclesiæ fecit, comburendo ecclesias vasa et feretra in quibus corpus Christi et corpora sanctorum et reliquiæ earundem collocabuntur, cor epar et pulmo, et omnia interiora ipsius Willelmi, a quibus tam perversæ cogitationes processerunt, in ignem mittantur et comburentur." The "corpus Christi" meant, we may suppose, the consecrated elements.

buted over England and Scotland, in token that his crimes had been committed not solely against our lord the king, but against the whole population both of England and Scotland: wherefore his head was to be placed on London Bridge; one quarter was to be suspended on a gibbet in Newcastle-on-Tyne, another was to be exposed at Berwick, a third at Stirling, and the fourth at Perth. The sentence was executed on the 23d of August, and it is one of the kind about which ordinary people generally entertain a hope that the humble ministers of justice who give effect to it lag behind the cruel spirit of the law, if they do not even take occasion to soften the letter of it.

The death of Wallace stands forth among the violent ends which have had a memorable place in history. Proverbially, such acts belong to a policy that outwits itself. But the retribution has seldom come so quickly, and so utterly in defiance of all human preparation and calculation, as here. Of the bloody trophies sent to frighten a broken people into abject subjection, the bones had not yet been bared, ere they became tokens to deepen the wrath and strengthen the courage of a people arising to try the strength of the bands by which they were bound, and, if possible, break them once and for ever.[1]

King Edward was already busily carrying out his new policy. It was much of the nature of a partly

[1] It is singular that among the many records of the period so carefully preserved there is none of the process against Wallace. The above account has been taken *from* an unauthenticated manuscript, bearing to be a copy of the principal parts of the record of proceedings, which has been preserved, and is printed in the Wallace Papers, p. 189. It bears marks of authenticity, which are strengthened by a comparison of its contents with the shorter accounts in the chronicles.

federal, partly incorporating union. There was to be one king over the whole island, and one great council or parliament. The crown was to be represented in Scotland by a governor or lieutenant, and he was to be assisted by a council—not of the nature of a parliament with a deliberative voice, but a small body selected by the crown to give advice in aid of the executive government. In the selection of that council the king showed his reliance on the co-operation of the great churchmen and barons in his new plan. The council selected by him all bore titles thoroughly Scotch, and among them were some of those who had but just laid down their arms and accepted of his clemency.[1]

In an English parliament which assembled early in the year 1305, the king called for the advice of the Bishop of Glasgow, the Earl of Carrick, and John de Mowbray, on arrangements for having Scotland represented in a parliament to be afterwards called. These advisers reported on some matters of detail and practicability; it would not be practicable to have meetings for election before next Ascension Day, nor could those chosen be well in attendance at London until after the Feast of the Nativity of St John the Baptist, or midsummer. The amount of representation to be conceded to Scotland was then settled, and, if we are to believe the record, was an echo of the report presented by the three advisers. There were to be in all ten representatives: there were to be two selected by

[1] "The council were—the Bishops of St Andrews, Dunkeld, Aberdeen, and Ross; the Abbots of Melrose, Cupar, Jedburgh, and Dunfermline; Bruce, Earl of Carrick; the Earls of March, Buchan, Athole, and Ross; Sir John Comyn, Sir John de Mowbray, Sir Alexander de Argyle, Sir John Monteith, Sir Duncan de Frendraught, and Sir John de Inchmartin."—Palgrave's Documents, clii., 292.

the prelates, two by the abbots, two by the earls, two by the barons, and two by the community or commonalty—one for the district north, the other for the district south of the Forth. The advisers recommended that these representatives should be refunded their personal expenses for attendance in England; and it was directed that these should be paid by the lieutenant and treasurer of Scotland out of the funds at their disposal. Writs were then issued for the attendance of the electoral colleges, as they would be called on the Continent, at Perth, to appoint representatives to attend the king's parliament in London within three weeks after St John's Day.[1]

The representatives chosen under this franchise were the Bishops of St Andrews and Dunkeld, the Abbots of Cupar and Melrose, and the Earls of Buchan and March. For the barons, they were John de Mowbray and Robert Keith; and for the commonalty, Adam Gordon and John of Inchmartin. Unfortunately we have no information as to the form and method of this general election.

When the parliament assembled for business, which was not until the month of September, the representatives for Scotland were all there, save the Earl of March. The king appointed John de Monteith to serve in his stead. Twenty of the English members were appointed to act with them in a joint-committee of conference, and the fruit of their deliberations was the issuing of a royal ordinance for the government of Scotland.[2]

The ordinance begins with the appointment of John

[1] Ryley's Pleadings, 241, 279.

[2] "Ordonnance faite par Edouard Roi d'Angleterre sur le gouvernement de la terre d'Escosse," in the first volume of the Scots Acts. This

of Bretagne as guardian or lieutenant of Scotland. The offices of chancellor, chamberlain, and comptroller are next filled. Six justices are to be appointed—two for the districts south of the Forth, two for the districts between the Forth and the Grampians, and two for the north. It is decided that the resident sheriffs shall be either natives of Scotland or Englishmen; they are to be appointed by the crown, and removable at pleasure, and are to be men of position, capable of good service to king and people. This rule would have been equally distinct had nothing been said about national qualification for the office; but the mention of natives of Scotland, even in this dubious fashion, had something in it of a soothing tendency; and it is repeated in reference to other offices, such as that of the coroner, soon afterwards dropped out of use in Scotland. Special order was taken for the disposal of places of strength, and governors were appointed to them.

After the adjustment of the official establishment, the state of the law comes up for consideration. The old code of laws of the Brets and Scots is to be cancelled, as unsuited to the civilisation of the period.[1] When the lieutenant or governor returns to Scotland he is to take counsel of the good men of the country, and to prepare and submit to the king a report on the laws sanctioned by King David, and any additions made to them in later times. Such things as are found contrary to the law of God and to sound reason are to be rejected. The lieutenant and his advisers may find

is the most authentic version of the ordinance. It has generally been cited from Ryley, p. 503.

[1] See chap. xvi.

some on which they cannot come to, or will not venture on, a conclusion on account of their importance. These they are to report to the king as matters undecided, along with their report on those parts of the laws and customs of Scotland which they recommend for adoption in permanence. The ordinance, after these general provisions as to the laws which are to be in force in Scotland, puts some restraints on dangerous persons, and gives a general power and recommendation to the lieutenant, with the counsel of the good men of the land, to send troublesome persons into England, where they will have to abide southward of the Trent.

The ordinance is not a logical or methodical document. It mixes up the broadest projects of legislation and administration with mere personal interests and arrangements. But it bears the impression of a high intelligence and a far foresight, mellowed by beneficence and even kindliness. The author of it sees that, once brought together, without violence or goadings to national antipathy, the two nations would naturally co-operate and fuse into one compact empire; and no one could be more alive to the mighty destinies that such an empire might have to look to. Had he begun in this spirit, there are many things to render it credible that he might have been successful. A nationality distinct from and antagonistic to that of the English people had not been made before the death of Alexander III. The Scots looked to King Edward with a paternal feeling, and had a leaning to the English institutions. Of these they were never afraid; and if they could have felt assured of retaining such freedom of action as these or their own native institutions gave,

they would not have been apprehensive of innovation. What they dreaded was the prerogative power, royal and baronial which the Normans brought by innovation on the original laws and customs of England. In the discussion of the succession, and in the military occupation of the country, these were set, in their most offensive shape, face to face with the people of Scotland. Throughout the twelve years' contest, too, they were reminded over and over again of those innovations, with which their neighbours were still at war. They knew that when the King of England found difficulty in gathering a sufficient force for crushing them, it was because he was haggling with his own people about demands for the renewal of the Great Charter and the limitation of the Forest Laws; and these reiterated demands were nothing but the lamentation and denunciations of the people of England for the rights and liberties of which they deemed they had been robbed.

For twelve years Scot and Englishman had drawn each other's blood; it was long enough of such work to make a national hostility. Conciliation came too late. It may be questioned if Edward knew this. He was preparing for a great union parliament at Carlisle, where more still was to be done for the fusion of the two nations. The administration of business in Scotland seems to have been going on quietly and regularly. The king, now nearing seventy years of age, might have reason to expect a peaceful evening to his stormy life, gladdened with the reflection that, if his treatment of Scotland had at first been marked by a necessary hardness, he had moulded his acquisition for the attainment of a goodly future by acts of mercy and

justice. Whatever were the dreams of the conqueror and pacificator, he was suddenly awakened from them. One day in the beginning of February 1306, Robert Bruce, Lord of Annandale, was missed at court, and it was found that he was off for Scotland. It was clear that a new act in the drama of the Scottish conquest had opened.

Before following the adventurer on his career, let us look at the position in which recent events had placed him. We have seen the figure made by his grandfather, fifteen years earlier, as a competitor for the crown before the court established by King Edward as lord superior. The grandson was born in 1274, and so would be a young man some seventeen years old when his grandfather was pleading before King Edward for the kingdom of Scotland, or for a part of it if he could not get the whole. The intermediate Bruce, the son of the competitor, was a quiet unambitious man. He went to the wars in Palestine—but in that he was only conforming himself to the usage of the day; and when he returned he lived peaceably in the enjoyment of his wealth and honours. He was known, indeed, for nothing else so remarkable as his romantic marriage to the mother of the hero.[1] He was but for a short time

[1] The following is a fair rendering of the accounts which the chroniclers give of this incident:—

"As the Scots had declared their readiness to sustain their part in the crusade, it was incumbent upon them to fulfil their promises, and accordingly several of their principal nobles, assuming the cross, departed with their followers for Palestine. Amongst the number of crusaders who never lived to return was Adam de Kilconcath, Earl of Carrick in right of his wife, Marjory, the heiress of the late Earl Nigel. About two years after the death of Earl Adam, his youthful widow was engaged in a hunting excursion, with a gay and gallant company of ladies and esquires in attendance, when a handsome cavalier of noble and distinguished appearance cantered across her path. The countess saluted the

head of the house. His father died in 1295, and he died about ten years afterwards. It is said that during his lifetime he transferred his estate and title of Carrick to his son; but this was his wife's inheritance, and may have gone to her son by the nature of the investiture. The father is thus, in the narratives of the time, called Lord of Annandale, and the son Earl of Carrick until the father's death.

King Edward did his best to train the young man in his own court as an Anglo-Norman baron. The king seems to have had a fellow-feeling for his ardent, hardy nature, and to have looked forward to distinguished services from a retainer of such metal; but was he to be a retainer? Throughout their intercourse there are ever symptoms of uneasiness and uncertainty about young Bruce shown by Edward and his chief advisers. Thus, when the disturbances under Baliol's short reign began, the Bishop of Carlisle sent for Bruce as a measure of precaution, and perhaps of kindness, and got him to take special oaths of allegiance. On that occasion he was accused of unworthily, for the purpose of demonstrating his loyalty, attacking the

knight, and as the courtly manners of the day required, he returned the lady's greeting according to the agreeable custom of the age, but excused himself from joining in the chase, until Marjory, unaccustomed to refusal, laying her hand upon the bridle, turned his horse's head with gentle force, and galloped off with her captive to Turnberry Castle. The countess had secured her prize, and after a fortnight's imprisonment in the lady's bower, the young heir of Annandale and Cleveland capitulated, and became the husband of his adventurous captor. Alexander was furious at such a breach of feudal decorum, threatening, as a punishment, to confiscate the earldom; but he suffered himself to be appeased by the entreaties of their mutual friends, and contented himself with levying a considerable fine upon the enamoured delinquents. The eldest son of this singular and romantic love-match was the illustrious Robert Bruce."—Robertson's Early Kings, ii. 109, 110.

lands and household of Douglas as a supporter of Wallace. The Bruces were decidedly at that time Edward's men; and it is even said that their estates were nominally forfeited by Baliol's government as those of enemies to their country. As a retainer of the court and an English noble, young Bruce ever received encouragement from Edward, who, on the other hand, naturally repressed his influence as a great feudal lord in Scotland. For instance, among his possessions in Aberdeenshire, Bruce held Kildrummy and its castle. The ruins of that building show it to have been a great castle, of enormous strength for the period, constructed on the new system of fortification which, during Edward I.'s time, penetrated into Scotland, and it is probable that it was built by the Bruces. It did not suit King Edward's views that this strength should be at the absolute disposal of its lord, and so he required by the ordinance for the government of Scotland that it should be committed to proper hands.

Nothing was likely to make Bruce forget the tradition of his house, that his grandfather had been nominated heir to the crown by King Alexander and his parliament; and the pleas on which that grandfather pleaded his right of succession were as strong as ever. The other competing families had all dropped out of the contest save the Comyns, but they were formidable rivals. Comyn the competitor, as we have seen, had a claim which could only stand after Baliol's, since they were descended of two sisters, and Comyn of the younger. Baliol was now out of the field, not merely by the feudal proceedings taken against him by King Edward, but by a voluntary resignation of his right of inheritance. Supposing this to be effectual, and

no one gainsaid it, it removed the line of succession to which that of the Comyns was subsidiary. But further, Comyn the competitor married a sister of Baliol, and their son, called the Red Comyn, had thus an additional claim to represent the rights of the deposed king.[1] Then there was a mysterious tradition of his descent from Donald Bane of the old royal line; and though this went for nothing before the court of the lord superior, it might avail with a people eager to be led against their enemy and craving for a leader. Here then, altogether, Bruce had a formidable rival.[2]

Comyn's demonstrations for the national cause had been much stronger than Bruce's. He was with the host that swept the northern counties of England, and he afterwards acted as guardian or governor of Scotland, and presented a hostile front to Edward on his invasion. We have seen that for all this there was but a nominal infliction laid on him, and he was received to favour. He was of the Norman school, not likely to feel any national antipathy to the supremacy of Edward, and it may be that his master could ill afford to quarrel with one who could be so effective a rival to the unsatisfactory Bruce.

[1] A chronicler who was born about this time says: "Johan de Baillof avoit iii sores, la primer, Margaret la dame de Gillisland, la second fust dame de Counsy, la tierce avoit Johan Comyn a marry, pier cely qi Robert Bruis tua a Donfres."—Scalacronica, 121.

[2] There were several wealthy and powerful families of the name of Comyn in Scotland, but John, Lord of Badenoch, was the historical Comyn, from his connection with royalty. It may be well to keep him distinct from another very powerful lord of the name, John, Earl of Buchan, the Constable of Scotland, who seems to have been a steady follower of King Edward. In the reign of Alexander III. the different families of the name of Comyn seem to have acted together in a group, but time separating them from each other, their descendants seem to have each followed his own policy.

We have seen that Lamberton, Bishop of St Andrews, was a zealous partaker with Wallace in his struggle for the purely national party. Whether it was by the bishop's advice or not, Bruce met him at the Abbey of Cambuskenneth, the scene of Wallace's great victory, in June 1304, and there the two entered into a league with each other, which was put in writing and sealed and authenticated by all the solemnities of the period; it is the earliest existing specimen of a kind of document which we shall frequently meet with afterwards. There are no engagements as to any distinct course of action, but the two bind themselves to general co-operation. Having discussed possible future perils, they resolve to aid and comfort each other when these come to pass. They are to stand by each other against all enemies; if either hears of any danger to the other, immediate warning is to be sent and co-operation given in averting it; most material clause perhaps of all—neither is to undertake any serious affair without taking counsel with the other. They bind themselves to this obligation by solemn oath. At the same time, as in any such modern contract for the supply of certain goods as a court of law would give effect to, either party failing to keep the engagement is to be subject to a pecuniary penalty—it is fixed at ten thousand pounds. The purpose it was to be put to when secured, takes us back from the attorney's style-book to the age and its conditions. The money was to be applied for the recovery of the Holy Land, and be dropped into the great fund lost in the crusades.[1]

[1] Lord Hailes seems to have been aware of this document (i. 342). It is given at length by Sir Francis Palgrave.—Documents, p. 323.

There was much more in such a document than it expressed. Subsequent events show that Lamberton represented the feeling of the churchmen, who had their own ecclesiastical independence to protect, and had already felt that the King of England would fain displace them for English subjects on whose conformity and co-operation he could rely. Then the allegiance of the Church to Bruce meant a great deal more than spiritual or ecclesiastical support, important as that might be. The religious houses held large baronies, and could call out a great proportion, probably not much less than a third, of the fighting men of the country. It would be serious, then, for both parties if rumours of such an alliance should reach King Edward's ears. In fact, it became known that he had taken Bruce in a very menacing manner to task about some document to which he had become a party. There can be little doubt that it was the bond, for we know that Edward had the original of it in his hand, and it is on record that the other party, the bishop, was closely questioned about it.[1] It is said that Edward, having on the same day made rather free with the wine-flask, dropped words which showed that Bruce was in imminent danger of his life. A friend at court, the Earl of Gloucester as it was said, sent him a symbolical warning—a sum of money and a pair of spurs. Bruce took the hint, and resolved to be off by morning. He took two followers with him. There was snow on the ground, and to baffle any attempt to track him out of London, he had the horses shod in the reverse of the usual manner, so that the marks

[1] Sir Francis Palgrave gives the bond and the cross-questioning of the bishop as certified in a notarial instrument—Documents, 323.

might seem those of horses on their way to town. Some of these particulars are traditional, and so is the story that the three met and slew a messenger whom they found on his way to court with dangerous papers from Comyn. Bruce halted at Dumfries. He must have known that he would find Comyn there—in fact the English judges were sitting in assize in the town; and the presence of two barons who had lands in the neighbourhood would create no surprise, but might be set down as a demonstration of loyal duty. The two met in the church of the Minorites or Grey Friars. Their conversation came to high words. It is difficult to have clear evidence of what is said on such occasions, but we know the rumour of the day as to the nature of the conversation, and it was this: Bruce spoke of the miserable prospect of Scotland, once a sovereign state, now nothing but a province of England, and showed how they two, powerful as they were, if they would work in common, might restore the old kingdom. He then made an offer. Take my estates and help me to be king, or, if you prefer it, I shall take yours and support your claim. Comyn objected, professing duty and loyalty to King Edward.[1] Bruce charged him with betraying certain secrets of his, probably the bond with Lamberton; and then, as the talk became fiercer and fiercer, Bruce drew his dagger and dealt the other a blow. When he came forth and joined his friends they saw that something was amiss, for it was a question of sacrilege, far more serious than murder. Bruce said there was something much amiss;

[1] Such is the account given by Sir Thomas Grey, the Northumbrian knight already referred to (p. 284), a man likely to be well informed.—Scalacronica, 130; Leland, Collectanea, 502.

he feared he had slain Comyn; and thereon one of his followers named Kilpatrick, who would have no doubts about such a matter, said, "I mak sikar"—I make secure—and slew the wounded man outright.[1] Comyn's uncle was killed beside him. At this their first taste of blood a sort of frenzy seems to have seized on the party, and they immediately attacked the place where the English judges were sitting. These, astounded by the suddenness and ferocity of the onset in a country never safe, surrendered. To make captives of them would be inconvenient, and they were driven across the border.

This was an unpropitious beginning, but it was more emphatic than even the crossing of the Rubicon, and left no alternative but to go on. The sacrilege was a serious blot, which would be employed to its utmost at Rome and elsewhere, but it was not irremediable. There are many symptoms that the Scots people of that day were not ardent devotees of religion, or as some people, looking to the kind of religion then prevalent, would call it, of superstition. The charges made, both in the chronicles of the day and in the state papers, against the Scots as a blasphemous and unholy people, given to sacrilege, would not have been so steadily reiterated if there had not been some ground to hold them a people less religiously inclined, at all

[1] The crest of the Kilpatricks or Kirkpatricks of Closeburn is a hand with a dagger erect in pale dropping blood, and their motto is, "I mak sikar." The late Charles Kirkpatrick Sharpe, one of the gentlest beings that ever existed so far as anything like physical violence was concerned, stood sturdily up for this story and his own descent from the perpetrator. See the notes he supplied to Scott's 'Lord of the Isles,' on

"Vain Kirkpatrick's bloody dirk,
Making sure of murder's work."

The present Empress of the French is a descendant of the Kirkpatricks.

events, than the English. The question how far the desecration of the Church would tell at Rome would be easily decided by consulting the friendly Lamberton; and he from the first seems to have felt no difficulty about putting the matter right.

The news that a stand had been made against the English invaders flew like wildfire over Scotland, and the people rose so tumultuously and threateningly that Edward's English servants, save where they were protected by fortifications, were glad to hurry out of the country. Bruce immediately took up his headquarters in his own Castle of Lochmaben. The remains still visible show us a building of that age raised on the new and formidable system of fortification which had come over from England. Two hundred miles farther north, in his earldom of Mar, he had his other castle of the same kind, Kildrummy, and he does not appear to have yet given it into other keeping, according to King Edward's order. We must count that a deal of Bruce's subsequent success depended on his holding for some time these strong fortresses.

The way being clear, it was resolved to take a decided step, and solemnly inaugurate Bruce as King of Scotland, according to the old traditional forms of such an occasion, so far as these could be effected. The ceremony dates on the 27th of March, some six weeks after the slaughter of Comyn; and the place chosen for it was the Chapel Royal of Scone, sacred from time immemorial to the inauguration of the Kings of the Scots. The old Stone of Destiny was absent, so were the crown—if there was one—and the royal robes. For the sacred stone there could be no substitute, but the Bishop of St Andrews contrived to make some

show of other pomps from his episcopal wardrobe. Besides the influence of the Stone of Destiny, there was another time-honoured element in the complete investment of a king of Scots which was supplied in a curious way. There was a tradition that a Macduff, a thane of Fife, had greatly aided in the revolution by which Macbeth was killed and King Malcolm raised to the throne. In remembrance of this service, it was the privilege of the race to place the crown on the royal head. So absolute was this, that when, at the coronation of John Baliol, the head of the house of Macduff was a minor, the appointment of a substitute to act for him was an affair of ceremonial difficulty. He had now reached manhood, but there might be many reasons why his attendance could not be obtained on such a sudden emergency. His sister was married to the Earl of Buchan, a stanch retainer of King Edward. The national got the better of the domestic sympathies, and the Countess set off for Scone, and arrived in time enough to put the new-made crown on Bruce's head. The English chroniclers say that she drew largely on her husband's stables, and clattered through the country at the head of a noble cavalcade. It is difficult for us now to understand the full compass of the veneration, superstition, or whatever else it might be called, that, on the one side, gave the use of the fatal stone and the services of the Clan Macduff a popular influence over the country, and, on the other, prompted the heroic Countess to do the act she did, with all its strangeness and all its perils.

These events, treading on each other's heels, were

astounding news to King Edward. He must have known the temper of the people; and remembering how troublesome they were, even when led by an obscure man from the ranks, he could not but see how formidable was the difficulty now that they had among them a crowned and legitimate king. He was then at Winchester, shaken by sickness and bowed by care, getting his way back to London with extreme difficulty to take steps to meet the new emergency. But if for no worthier things, there was room still in his frail body for hatred and ferocity. The short-lived projects about conciliation and gradual amalgamation dissolved at once; and it is observable that henceforth to his death the fiery rage of the king is visible even through the decorous formality with which the royal scribes were bound to prepare the royal proclamations. In his pious mind the rising would be aggravated, if aggravation were possible, by the conditions of Comyn's slaughter. One of the earliest acts of his vengeance is a deep stain on his chivalry. The Countess of Buchan was caught, and Edward devised a special and ingenious punishment for her. He gave orders that a box or cage should be made of spars; it was to be large enough for a proper chamber, and to be attached to one of the towers of Berwick, high enough up to prevent her holding converse with any one, and in this she was imprisoned. We are not told so in the minute instructions for the making of the cage, but the chroniclers tell us that the cage was so hung on the outside that she could be seen by passers-by; and the object of restraining her in this form seems to have been that she might be a common spectacle, and an example of the fate in store for those who thwarted the will of

Edward.[1] To such acts could baffled ambition bow the chivalrous knight, who had wept over the loss of his loved Eleanor, and had given such expression to his sorrows as made her memory renowned to after ages.

Aymer de Valence, Earl of Pembroke, was sent to be Governor of Scotland in place of John de Bretagne, who appears to have been driven forth by the Scots. An ordinance was issued, very different in tone from the pacifying ordinance of the previous year, and much shorter. First it was to be proclaimed through all cities, towns, and burghs, and by the justices on their circuits, that all those who were in arms against the king were to be pursued and taken, dead or alive; they were to be pursued by hue-and-cry from city to city, from county to county, from place to place, and those who did not join the chase after them were to forfeit their estates and be imprisoned. If any sinned further and harboured the rebels, they were to be punished at the discretion of the governor. Next, all who had any concern with the death of Comyn were to be drawn and hanged, and the same to any who gave them countenance or comfort. All taken in arms against King Edward, and all giving shelter to persons in arms, were to be hanged or beheaded. For those who had taken arms, but so far returned to a sense of duty as to surrender, there were punishments short of death.[2] A speedy application was made to the Pope for letters of excommunication against Bruce for sacrilege, and they were granted, with unusual promptitude,

[1] "In domuncula quadam lignea super murum castri Beriwici posita est, ut possent eam conspicere transeuntes."—Rishanger, 229.

"Sub dio forinsecus suspendatur, ut sit data, in vita et post mortem, speculum viatoribus et opprobrium sempiternum."—Mat. Westm., 455.

[2] Ryley's Pleadings in Parliament, 510.

on the 16th of May. They directed the Archbishop of York and the Bishop of Carlisle, in consideration of the slaughter in the church of the Minorites, to excommunicate the Earl of Carrick by the usual sounding of bells and burning of candles.[1] This bull has not the appearance of having been issued in a knowledge of the political conditions of England and Scotland; there had been a murder in a church, reported to the Holy Court by a sovereign, and the usual anathema was immediately issued. The bull seems to have had no effect in Scotland, where thick-coming events gave more immediate occupation to people's thoughts.

It was determined by King Edward that again there should be a mighty invasion of Scotland. Summonses and commissions of array went forth; and to impress all fighting men with the seriousness of the emergency, there was a proclamation, as there had been before, against the holding of idle military pageants, tournaments, jousts, and the like, until this affair with Scotland should be finished.[2] Broken down as he was, he must be carried with his army northwards; but before that army began its march there was a grand state pageant and inauguration. The king's eldest son, the Prince of Wales, a young man in his twenty-second year, was to be knighted, and with him a crowd of the sons of the English barons. He kept his vigil in Westminster Abbey, was then duly dubbed, and being himself within the sacred circle of knighthood, he admitted his companions, some three hundred, who took their vigils in the Temple Church. All London was roused into excitement by the splendour and solemnity of the

[1] Fœdera (Record edition), i. 987.
[2] Palgrave, Parliamentary Writs, i. 377.

ceremonies, which devoted the flower of the young chivalry of England to the one engrossing object of the conquest of Scotland. King Edward, by his own personal part in them, threw a terrible earnestness over these ceremonials. He made, by every sanction he could call up, a vow to devote his remaining days to vengeance for the sacrilegious murder, and the extermination of the rebel king and his followers; and conscious, as it would seem, that the sternest will could not strengthen his tottering frame for a long tough contest, he forecast a plan by which his indomitable spirit might leave an influence after it had fled from the tenement of clay. He exacted a solemn vow that on his death his body should be carried with his army, and never buried until Scotland was subdued.[1]

His preparations for war were not hampered by the slowness of his personal movements. An army reached Scotland early in 1306 under Pembroke the new governor, Clifford, and Percy, with what result we shall presently see. The old king followed slowly, having to take long rest at various points; he set out in the summer of 1306, but it was March of the following year ere he reached Carlisle.[2]

He had the satisfaction yet before he died to reap a small but rich harvest of vengeance. Nigel Bruce, a brother of the king and a youth celebrated for his comeliness, was taken, and afterwards hanged and beheaded. The same doom befell the husband of Bruce's sister, Christopher Seton, and his brother, Alexander

[1] Of the various accounts of these events in the chronicles, the most spirited is that given towards the end of Mathew of Westminster.

[2] See the stages of his journey, traced by Lord Hailes through the dates of the writs issued by him.

Seton. The Earl of Athole, Simon Fraser, and Herbert de Norham, were put to death at London after the horrible form of the execution of traitors; and the chronicles say that Athole, being in some slight degree akin to the royal blood of England, had the distinction that the gibbet he was hanged on was thirty feet higher than the others. There were many inferior victims.

These are the acts that break the spirit of servile races, but only nerve those of higher mettle to defiance. The selection of the victims, too, was of infinite value to the struggling people of Scotland. Hitherto no noble and Norman blood had been shed by the hangman. When these strangers first acquired lands in Scotland, and afterwards, while they belonged to the English court, they got the name of Frenchmen, and were treated as hostile aliens. But they were of the same race as the people of the land, and gradually we find them changing from Frenchmen to Scotchmen with the national feelings of their country: and now this community of feeling became cemented by common sufferings and a common enmity.

Among the illustrious captives were two great prelates — Lamberton of St Andrews, and Wishart of Glasgow: None had been so versatile and so indefatigable in stirring up the people, and no laymen had broken so many oaths of allegiance to Edward, yet he was content to imprison them, afraid to dip his hands in clerical blood.

Meanwhile the old king dreamed that new health was stirring within him. He hung up his litter as a votive offering in the cathedral of Carlisle, and mounted his horse to ride towards the Solway. He reached

Burgh-on-the-Sands, within sight of Scotland, and there died on the 7th of July 1307. With his last breath he provided for the method in which the great vow he had exacted was to be carried out. The flesh was to be stripped from the bones, and these were to be borne at the head of the army. The thing was not done; dying wishes that breathe of love and duty are deemed sacred, but those that carry the spirit of hatred and vengeance survivors are not prompt to execute. He was buried decorously in the Chapel of King Edward, beside the wife of his heart, and that palladium of Scotland which was to be the one memorial of his conquests.

CHAPTER XXIII.

War of Independence to Bannockburn.

DIFFICULTIES OF THE NEW KING—POLITICAL POSITION OF THE HIGHLANDS — BRUCE'S WANDERINGS AND ADVENTURES — ACTS OF PERSONAL PROWESS — POPULARITY — FIRST GERMS OF SUCCESS — CONTEST WITH THE COMYNS — ASSISTANCE OF THE CLERGY — THEIR INFLUENCE, SPIRITUAL AND FEUDAL — THE OSCILLATIONS OF ALLEGIANCE — SPECIMEN OF A SHIFTING BISHOP — SIEGE OF STIRLING BY BRUCE — ENGLISH NATIONAL PRIDE ROUSED — EAGERNESS TO DO BATTLE IN SCOTLAND — COLLECTION OF A GREAT ARMY — PECULIAR CONDITIONS OF THE COMING CONTEST AS FIXED BY THE CONDITIONS TO SURRENDER STIRLING — THE POSITION OF THE SCOTS ARMY — ITS PERSONAL SPECIALTIES — HOW BOTH ADAPTED TO THE OCCASION — THE APPROACH OF THE ENGLISH HOST — BRUCE'S PERSONAL PASSAGE OF ARMS — RANDOLPH'S SKIRMISH — BATTLE OF BANNOCKBURN.

Soon after the inauguration at Scone severe trials came on the new king and his followers. The English army was far too strong for an unorganised rising to make head against it. Pembroke, the regent, was strongly posted at Perth. Bruce brought his little band too near this enemy, and was attacked at Methven on the 19th of June. It was a surprise and a scattering rather than a battle, but it was a heavy blow to the infant cause; it was in this affair that the

greater portion of the captives put to death by the English were taken.

Soon afterwards the party suffered a check from a totally different quarter, which showed that, besides the English claims, there was another formidable difficulty in the way of restoring Scotland to an independent sovereignty. We have seen that, along the western mountain district of Scotland and the large cluster of islands off the western shore, there was a Celtic people who could not easily conform to the sovereignty of the King of Scots, though they were in reality the descendants of those who first brought the name of Scots into the country. It did not make them more docile that the invasions of the Northmen threw a good deal of Norse blood into the race. The royal prerogative, and the Norman feudal tenure of land, extended over their districts fleetingly, and sometimes nominally only. By the technicalities of the chapel of chancery the king's writs were current there, just as in terms of a proclamation of King Edward those of the King of England were supposed to be current in Scotland when Wallace governed or Bruce reigned. There was enmity between these Celtic tribes and the Lowlanders of Scotland of a different kind from the enmity that had now grown between England and Scotland. It partook of the antipathy of race; and though it did not come out so powerfully in great contests, it never died. It was the natural condition of these people to be under absolute chiefs and leaders, who set up a mimic royalty. Since protection or assistance from Norway had ceased, there was no longer, as of old, a combined state, of which the Orkney Islands and the coasts of Ireland were members. Even in the Highlands and Isles there

was generally more than one king or chief. Had all been under one leader when King Edward began his encroachments, there is no doubt that he would have had thorough help from that leader. As it was, he entered into alliance with three of them, who, as they were in some measure rivals, did not always co-operate.[1]

Bruce and his band had, for some cause unexplained, to pass through Athole, and penetrate through the Highlands until he reached the edge of the country of one of these chiefs, John of Lorn, who, naturally no friend of Bruce, happened to be a relation, of the slaughtered Comyn. There, at Dalry, near Tyndrum, between Loch Awe and Loch Tay, the little party was attacked by a swarm of Highlanders. The contest was one of the kind which gave opportunity to the mounted knights in full mail, to show how unassailable they were. To fight face to face with the half-naked horde on their own rough ground was out of the question, and Bruce gained signal honour by the way in which he moved his mailed phalanx away, rendering pursuit deadly to those who came nearest.

Two other affairs come out with some distinctness in the confused history following on the coronation. Bruce wandered into the far west, Arran and Kintyre, seeking, as it would appear, to have a good opportunity for seizing his own Castle of Turnberry, on the Ayrshire coast opposite to Arran. He found it so well garrisoned by Percy that attack was useless. Fortune favoured his adventure, however, in another shape; for in a night attack on Percy's army close at hand, he caused havoc

[1] "Litera Alexandri de Argathil; litera Alexandri de Insulis; litera Donenaldi de Insulis."—Fœdera (Record edition), i. 761.

and panic; and, what was of some moment, gained a valuable booty. He was here among his own people, from whom he would of course recruit his force to the utmost, and he kept Percy blockaded in the castle until a fresh English force made it necessary to move away. The other affair was at no great distance from Turnberry, at Loudon Hill, in the eastern part of Ayrshire. The position was a strong one—a conical trap rock rising out of a sloping base. Here Bruce met an attack by an English force under Pembroke. What we can gather from the romantic traditions of the affair is little more than this, that Bruce intrenched himself strongly, and, following up the tactic of Wallace, defended a strong position by spearmen on foot against the assault of heavy armed cavalry, tempted to make a rash attack by the disparity of their enemy's numbers, and the superstitious reliance on the invincibility of such troops. However it came to pass, the English were driven off so effectually that the affair is recorded as a defeat in their contemporary chronicles, which tell that their leader retreated to Ayr, and thence returned to England.[1]

It is extremely difficult to give distinctness and chronological sequence to the events in Scotland from 1306 to 1310: the conditions are indeed antagonistic to distinctness. We have a people restless and feverishly excited to efforts for their liberty when opportunity should come, but not yet embodied in open war against their invaders, and therefore doing nothing distinct enough to hold a place in history—in fact, if after events did not attest the determined spirit of opposition then smouldering among the people, the natural inference would be, that they were now thoroughly

[1] See Hemingford, 236.

broken in. The other prominent feature in the historical conditions, was the new-made king, as yet so insecurely seated that he must be treated as a competitor only for a throne. He was not, however, in this capacity holding himself apart in serene dignity until his partisans should come to tell him that the cause of legitimacy is at length triumphant, and a devoted people are impatient for their sovereign. On the contrary he was doing his own work with labour, peril, and suffering. At one time he has to pass through dangerous ways to look after his interest at some distant spot—again he is pursued, and has to flee for his life and hide himself. Aware of the impossibility of making head for some time against the army of occupation, he had sometimes more to do in keeping his followers quiet and hidden than in embodying them under his command. The history of such a way of life is liable to indistinctness and obscurity; and yet we possess a clear and picturesque narrative of the whole. It is difficult to believe it all, and yet it is so natural and congenial to the conditions of such a history, that it is useless to cut away any part of it as absolutely incredible. It is a fact, at all events, that the story was believed in Scotland at the time, and it is necessary to a true history to afford some touches of its characteristics.

We soon become acquainted with the nature, physical and moral, of the adventurer. He is a tall strong man, of comely, attractive, and commanding countenance. When clad in steel and mounted on his warhorse he is a thorough paladin, dealing with sword or mace the doughtiest blows going in his day. But when he has to cast aside his panoply he can take to the ways of the half-naked mountaineer—can make long

journeys on foot, scramble over rugged ground, and endure cold and hunger. He is steady and sanguine of temperament; his good spirits and good-humour never fail, and in the midst of misery and peril he can keep up the spirits of his followers by chivalrous stories and pleasant banter. To women he is ever courteous, and he is kindly and considerate to all less able to bear fatigue and adversity than himself. There is throughout, indeed, a remarkable parallel between Robert Bruce and Henry the Great of France, with the difference in Bruce's favour of his living in an age which did not applaud the immoralities of gallantry.

There is a very fair instance of his personal prowess in the retreat from the swarm of Highlanders near Tyndrum. Two brothers had sworn to take his life; and bringing a comrade to aid them, they watched until the retreating party had to pass between a lake and its abrupt bank. Bruce was the last, and the passage was so narrow that it was impossible for him to turn his horse. Then the three leaped on him like wild cats. One seized the bridle and hung by the horse's head, and was instantly cut down. Another got his hands between the stirrup and the boot, and tried, by heaving up the rider's foot, to unhorse him. This was well known as a trick by which ill-armed assailants, reckless of life among themselves, might put mounted knights to imminent peril, for if once overbalanced the weight of the mail made recovery of the seat difficult. Bruce stood straight up in his stirrups and dragged the mountaineer after him, while the third alighted behind, and, grasping him tightly, tried to help in the unhorsing. The hero, twisting himself round, cleft his head,

and then, having no more to deal with, cut down the man dragged at the stirrup.[1]

This was a natural enough shape for a contest between a strong mounted man-at-arms with three fierce savages. Other achievements of the Bruce are not quite so credible. In Galloway he finds himself with but two attendants beset by a party of the wild natives, some two hundred in number. He takes his station in a pass or cleft so narrow that only one man on horseback can pass through it at a time. Up comes a mounted Galwegian; he and his horse are at once slain by the king. Another and another comes up, to share the same fate, and the cleft is so choked up with dead men and horses that the others cannot approach. The noise of the contest is heard by Bruce's party, who come up to the rescue, and the Galwegians retreat. Still another incident. When hard pressed by pursuers Bruce and his band would scatter, each taking his own way, and leaving the enemy perplexed as to the direction in which they were to seek the great prize. Once finding himself in the presence of a double army of his enemies, commanded by Pembroke and John of Lorn, this tactic was tried. The Highlanders had, however, got hold of a bloodhound once belonging to Bruce himself, and set him on the trail. He heard the baying and knew the danger. Coming to a stream, he waded

[1] Barbour says of the two brothers :—

"Thar surnam was Makyndrosser,
That is all sa mekill to say her,
As the Durwarth sonnis perfay."

Shaw in his Gaelic Dictionary has "dorsair" for doorkeeper. One would hardly have expected that the Archdeacon of Aberdeen would have condescended to notice such a Celtic etymology. It was in this encounter that "the brooch of Lorn" was seized.

some way up, then mounted into a tree, caught suspended branches, and swung himself a good way on from tree to tree before he alighted on the ground—so the hound would find the place where his feet had entered the stream, but would nowhere find trace of his stepping out upon the bank.

There were other adventures of a less stirring kind, but scarcely less likely to endear the national hero to his people. Early in their wanderings the party were joined by Bruce's wife—the queen, as she was of course termed—and the wives of some of his followers. Until they were housed in the Castle of Kildrummy these ladies held to the party in their wanderings, and the chivalrous spirit of Bruce and his knightly followers was shown in the tender care taken of them in extremity of difficulty. Bruce was early joined by young Douglas, afterwards known as the Good Lord James—the son of Wallace's friend. The youth appears to have been a great acquisition in many ways. The party had to support themselves by hunting and fishing, and Douglas showed himself an adept in both kinds of sport.

He had his own share, too, in the achievements of the party. One of these became renowned by the name of the "Douglas Larder." His paternal estates had been gifted by King Edward to Clifford. The young Douglas set off one day in disguise, by way of taking a sentimental ramble over the scenes of his infancy, but ready at the same time to deal with such adventures as might befall him. He found old followers of the house there, and gradually gathered such a party as might adventure on some great enterprise on known ground. The English garrison went in a

body to church, leaving the castle empty of all save the domestics who were to prepare a meal for them—a piece of carelessness almost incredible. Douglas and his followers fell upon them, thus utterly at unawares, and made an easy conquest. The victors then ate the dinner prepared for their victims, and when they had finished, gathered all the provender in the establishment together on a pile of wood, somewhat after the fashion of an old Roman funeral pyre. The captives were slain, and, with those killed in the onset, were thrown on the heap, while the wine-skins were cut open, so that the liquor ran out along with their blood; then the whole was set on fire. Such were the acts of vengeance which hatred of their invaders had taught the people to tell and hear with exultation. The story may serve to close the brief string of incidents, selected rather to show the nature of the things which the people delighted to hear concerning their favourite hero and his companions, than as events which can be vouched for as absolutely true.[1]

[1] The book, half epic half chronicle, which is the great storehouse of these adventures, is known to readers of old English literature as 'The Bruis,' by John Barbour, Archdeacon of Aberdeen. Scotland is fortunate in the possession of such a memorial. The national hero of a country is seldom thus celebrated until centuries have passed and the manners have utterly changed. The chronicle or romance, whatever it may be called, is then an echo of the manners of its own day, not of theage it professes to commemorate. The whole school of Arthurian romance is an eminent instance of this. Barbour, however, was at his studies at Oxford within thirty years after Bruce's death. The Archdeacon was not a man of bold or luxuriant imagination, whence one is apt to give the more faith to his narrative. It has been accepted pretty freely into history, even by the dry and doubting Lord Hailes. Yet Barbour sets out with a statement showing a determination to subordinate facts to his notion of the artistic structure of a story, calculated somewhat to appal the searcher after fact. He makes his hero the same Bruce who was competitor for the crown in 1291, thus indenti-

It must be held beyond all doubt, that the turning-point in the recovery of the independence of Scotland was the death of King Edward in 1307. The work to be done required such a leader. Communities may grow strong or decay—some may become aggressive and dominant, while others sink into servility or decay; these phenomena are the result of silent, gradual processes, like growth and decay in nature. To conquer a country at the sword's point, however, requires the special man, with a head and a will for the occasion. When he disappears his incompleted work is lost. His people and barons were not always willing coadjutors in Edward's design; he had first often the hard task of goading them to take arms before he had the other of assailing his enemy, and he frequently met with the bitterest disappointments when discontentments for broken promises about the charters lost him the favourable moment. No longer urged by a fiery master, the English barons rested. The young king, Edward II., had a fine army brought for him to the border, and he crossed it, marching as far as Cumnock in Ayrshire, and then returning, probably for want of provisions. There was another equally meaningless incursion in 1310, when the English army reached Renfrewshire and returned. The lieutenants or governors of Scotland were frequently changed, but none of the appointments had significance enough to demand comment. Bruce was fast making head. The chief stand

fying the hero of the tale with his own grandfather. This enabled him to tell how the Bruce scornfully refused to hold Scotland as a fief of England, so that Baliol, who was so base as to accept the crown on such terms, was chosen in his stead.

made against him was by Comyn, Earl of Buchan, the husband of the lady who had assisted at his coronation. His domain was the great level tract reaching from Aberdeenshire north-eastwards along the coast to the opening of the Moray Firth. Whether or not he was successful in getting together a following from his own territories, he and Mowbray, one of the English commanders, had a considerable force between them. Bruce was westward in the higher ground, where his old feudal strength lay. Being so near each other they could not but fight, and they met near Inverury, on the Don. It was a contest under conditions soon to disappear from history—a Norman baron with a Scottish title using his territorial power in the cause of England. Bruce was on a sick-bed at the time; but, like the war-horse, the sound of battle roused him, and he demanded to be mounted. His force scattered the enemy, pursuing them to a great distance, and Bruce said that the excitement of victory restored his health. The victorious party swept the lands of the Comyn, and their vengeance was remembered in local tradition as the "heirship" or "herrying" of Buchan.

The English were driven out of the strong places one by one—sometimes by the people of the district. We hear of the fall of Edinburgh, Roxburgh, Linlithgow, Perth, Dundee, Rutherglen, and Dumfries. In Aberdeen there was a fortress with an English garrison, yet Bruce and his followers were received by the citizens in their hour of need, and when his prospects brightened the English garrison was driven out. The city long enjoyed a tradition telling how the English garrison were put to death, every one of them—for to

have done something towards the extirpation of the English invaders was a source of legitimate pride in any part of Scotland.[1] The fortresses thus taken seem to have usually been of the clumsy obsolete class, and Bruce was in the practice of destroying them. As a Norman baron accustomed to the new school of fortification, he would naturally have little respect for them. The Scots army, too, was seldom large enough to be wasted on secondary garrisons, and an extensive process of fortresses was inconsistent with the policy of the defensive system begun by Wallace and ever maintained, of abandoning invaded districts and leaving bare fields to the enemy.

In the beginning of the year 1309 Scotland was so far consolidated as to be getting into a place in European diplomacy. The King of France advised his son-in-law, Edward II., to agree to a souffrance or truce with the Scots. It is difficult to believe that such a recommendation was made spontaneously. We must suppose that the Scots pressed on the Court of King Philip the policy of reminding England that France had not forgotten the existence of Scotland as a means of checking her great enemy. The truce was agreed to. In the adjustment of the affair a little incidental touch of the French diplomatic practice of that day came out. King Edward wrote to the King of France, complaining that his emissary brought letters openly addressed to Robert de Bruce, Earl of

[1] Hector Boece said the bones of the English were to be seen in his day with inscriptions narrating the manner of their death. As also that the Church made the citizens ever after do penance by retiring to the chapel of the castle every Sunday and praying for the English slain. See in the 'Book of Bonaccord,' p. 32, an examination bringing home the whole story to Hector Boece's inventive genius.

Carrick, while he had others kept secret addressed to him as King of Scotland.[1]

While the negotiations with France went on, countenance still more important was given to the new order of things at home. The clergy in council set forth their adherence to King Robert, with the reasons for it. They referred to the contest of his grandfather for the throne, maintaining that he was the true heir. In mournful strain they lamented the miseries suffered by the country through the ambition and cruelty of its enemies; but He through whom kings reign had restored the land through the success and prudence of King Robert, whom the people received as the true heir of the crown in right of his grandfather, and thereupon they proffered to him their homage and allegiance. Among the adherents to this manifesto were Lamberton, Bishop of St Andrews, and the Bishops of Glasgow, Dunkeld, Aberdeen, Moray, Dunblane, Ross, Caithness, Brechin, the Isles, and Galloway.[2]

This was an extremely important matter, for it meant, of course, that the Church would do its best to protect him from all ecclesiastical risk arising from the death of Comyn. This powerful backing was no doubt due to the restless Lamberton. He had been for some time a prisoner in England, where he expressed much contrition for the past, and loyalty to the cause of English ascendancy. On his earnest representation that he could better serve the cause of Edward in Scotland than where he was, he was released; and

[1] "Ad Regem Franciæ, de suspicione nuncii sui scribentis literas Roberto de Brus, alias publice ut Comiti de Carric, alias secrete ut Regi Scotiæ, 2d Aug."—Fœdera (Record edition), ii. 79.

[2] Act Parl. Rob. I., first vol. of Scots Acts, 100.

this was the way in which he fulfilled his obligation.

There was, indeed, ere the revolution had come this length, a great deal of oath-breaking and counter-swearing. Part of it was voluntary, as when those whose homage had been exacted by Edward found themselves free. A good deal of it was no doubt forced on unwilling subjects by the new government; for the Norman barons who held lands in Scotland had not all turned Scotsmen—the sympathies of many of them were with the English Court.[1]

Of course the breaking of an oath has an ugly sound, and is not to be lightly spoken of; yet, like all other offences, it has to be measured by the special conditions of the time. We have seen the practice of oaths of allegiance coming into universal use with the feudal system: it was, along with the marriage law and other institutions, one of the arrangements by which the Church sought a hold over the laity, and in its primary object of cultivating truthfulness and fidelity was beyond question beneficial. The practice, however, was heavily influenced by the materialism prevalent in the religion of the day. In exacting an effective oath, the great point was to attach to it some special sanction which would make the swearer afraid to break it. An oath was taken in the name of a certain saint, and it would be much invigorated if the hand were laid on

[1] Sir Francis Palgrave gives an instance of coerced homage by Bruce, which he seems to think more unjust and tyrannical than anything he found King Edward doing. It is in a memorial to King Edward and his council by Malice, Earl of Strathearn, which "is extremely interesting, as showing the force and duresse exercised by the Bruce against or upon all who dared to adhere to their own allegiance."—Documents, clix. 319.

a bone or some other relic of the saint. From that moment, the person sworn, if he were a religious-minded man, felt that the saint would be his enemy if he broke his oath. One can see that an oath judiciously attached to some minor saint was often more desirable than a higher religious sanction; the minor saint had not much power, perhaps, but that might render him all the more vigilant in looking to the conduct of his devotee.

Thus, after centuries, the Church had thoroughly established the influence of this kind of obligation. At the same time, however, the practice had taken such a tendency, that what the Church laid on the Church could also take off. The pious Edward I. himself, while exhausting his eloquence on the sacrilegious perfidy of the Scots, was pleading at the Court of Rome for dispensation from the oath he had taken to confirm the charters. It is another strange feature in the affair that churchmen were the readiest to act in the teeth of their oaths, because they knew better than laymen how to get the burden of the offence removed; the affair was in their own way of business—they were surer of what they were about. In the great contest for independence, the oaths broken by ecclesiastics are about a hundred per cent more in proportion than those broken by laymen.[1]

[1] Sir Francis Palgrave becomes unintentionally picturesque in the rubrics or marginal indications given by him, when he brings forward the record of the retractions of the two eminent prelates Lamberton and Wishart:—

"The king's enemies being defeated, Lamberton changes sides; takes the oath of fealty again to the king; receives back his temporalities, &c.

"Confidence reposed by Edward I. in Bishop Lamberton. He is appointed chief of the royal lieutenants or governors.

Another unpleasant feature disturbs the harmonious picture of an oppressed people driving forth the invader that they might regain their liberties and enjoy them in peace. Peace was not yet among the objects

"Lamberton changes sides again, and steals off to Bruce.

"Lamberton treacherously places the son and heir of the Stewart (who had been given as a hostage by his father) in the power of the Bruce.

"The king's power increasing, Lamberton changes sides again; surrenders himself to Sir Aymer de Valence, and takes another oath of fealty to the king; after which he changes sides again, and sends forces to the assistance of Bruce.

"The Pope requested to punish such acts of perjury and treason.

"Bishop Wisheart takes the oath of fealty for the *first* time.

"And breaks his *first* oath, abetting Baliol in all his treasons.

"Bishop Wisheart, upon Baliol's submission, takes the oath of fealty for the *second* time.

"Bishop Wisheart takes two more oaths, and promises fealty for the *third* time.

"Bishop Wisheart takes advantage of the king's absence, breaks his *second* and *third* oaths, and instigates the rising of Bruce and Wallace.

"Bruce's affairs appearing to decline, Bishop Wisheart changes sides again; submits, and becomes one of the sureties for Bruce.

"Bishop Wisheart changes sides again, and goes over to the Bruce.

"Bishop Wisheart appears to change sides again, and surrenders himself to Edward.

"Bishop Wisheart charged with having made such his surrender out of treachery, and that he might betray Roxburgh Castle to the enemy.

"Bishop Wisheart treated most courteously by Edward—enlarged upon his parole. He takes the oath of fealty for the *fourth* time.

"Bishop Wisheart breaks his *fourth* oath, changes sides, and sends forces to act against the English.

"Edward having defeated his enemies, the bishop changes sides again; takes the oath of fealty for the *fifth* time, and acknowledges that he holds his temporalities of the king.

"The bishop takes the oath of fealty for the *sixth* time, and with great solemnity.

"After which he changes sides again, and assists Bruce *totis viribus* in his assumption of the royal authority.

"These matters notorious to all the world.

"The bishop refuses to return to his allegiance.

"Preaches to the people that fighting against the King of England is as good a work as a crusade."

of the Scots. King Edward complained that they broke the truces he had conceded by desire of the King of France. They made more than one raid through unhappy Cumberland, in one of them reaching Durham, where they did much mischief. The English chroniclers charge the marauders with all the horrors which it had been for centuries the practice to attribute to a border invasion by the Scots. The son of the man who had twice overrun Scotland was assailed by the piteous wails of his own English subjects—victims from the masterful Scots invaders. Beyond the suffering districts, the calamity was made known in the disagreeable shape of the exaction of a forced loan to protect England against Robert Bruce and the Scots.[1] If the voice of prudence could be heard in the tumult of such wild retaliation, it would tell that the Scots could take no surer way of proclaiming to England that Scotland should be reconquered.

A crisis came at last which roused the Government of England to a great effort. After the fortresses had fallen one by one, Stirling Castle still held out. It was besieged by Edward Bruce before the end of the year 1313. Mowbray, the governor, stipulated that he would surrender if not relieved before the Feast of St John the Baptist in the following year, or the 24th of June. The taking of this fortress was an achievement of which King Edward was prouder than of anything else he had done in the invasions of Scotland. He made it of far more moment than even his victory over Wallace at Falkirk. Its possession was a significant symbol that there was still a hold on Scotland,

[1] The assessment of this loan on the clergy is given at length in Palgrave's Parliamentary Writs, ii. 105.

for it commanded the gate, as it were, by which the two great divisions of the country could hold intercourse with each other. That the crowning acquisition of their mighty king should thus be allowed to pass away, and stamp emphatically the utter loss of the great conquest he had made for the English crown, was a consummation too humiliating for the chivalry of England to endure without an effort. Stirling Castle must be relieved before St John's Day, and the relieving of Stirling Castle meant a thorough invasion and resubjection of Scotland. The great barons, who had been at discord with the king about his favourite, Pierce Gaveston, and other things, now set to work in the great cause, and the lazy king was thus the nominal director of a military drain upon the country more thorough than his determined and untiring father had ever accomplished. Besides the feudal force of England, dragged out by all forms of summons and array, the king demanded the attendance of his Welsh subjects. After the example of his father, he issued personal requisitions to the kings or chiefs of "The Irishry."[1] Against the kind of enemy they were to meet, neither of these two elements could be of much benefit to the army, and they were probably rather a hindrance than a help.

Perhaps there never was a battle of which the conditions as to both armies were so distinctly preadjusted and so inevitable, as that which was to come. The time and the place were fixed by an obdurate necessity.

[1] They are addressed by such titles as—Eth Offlyn dux Hibernicorum de Turtery; Doneval O'Neil dux Hibernicorum de Tyrowyn; Lauercath Mac Wyr dux Hibernicorum de Lougherin; Gillys O'Railly dux Hibernicorum de Bresfeny; Felyn O'Honoghur dux Hibernicorum de Connoch, &c.—Fœdera (Record edition), ii. 245.

The English were to relieve Stirling Castle; the Scots must prevent them. If they attempted to meet the invaders at any distance from this point, they ran two risks. If the enemy were not met and fought, they might outflank the Scots and reach the castle. If the Scots did meet and fight, it might be on bad ground, and that would be fatal. The battle, therefore, must be under the walls of the castle. Certain writs issued in England so early as the 27th of May set forth, for the purpose of exciting the warlike spirit of the country, that the Scots intend to assemble in great numbers on certain strongholds and morasses inaccessible to cavalry, in order that they may prevent the Castle of Stirling from being relieved before the Feast of the Nativity of St John; and if this be not done, the Constable must surrender the castle, according to conditions between him and the enemy. That any force Bruce could gather should meet so mighty an army as England was collecting otherwise than on strong selected ground was out of the question. It was the fortune of the Scots that the ground provided for them was nearly as good—perhaps quite as good—as any they could have selected; and there was this further advantage, that however strongly they were posted, the English must attack them there, and could not evade the battle.

Stirling Castle stands on a trap rock rising out of a basin, and one does not pass far from it before beginning to ascend. To the south, and partly to the east and west, the ascent is on the Campsie Fells, a chain of hills neither very lofty nor very precipitous, but affording ground capable of being made very defensible. Here the Scots army were to meet the enemy; indeed

nowhere else could they do so; and Bruce occupied himself in fortifying the position. To the right it was well protected by the brawling rivulet the Bannock Burn, which gave a name to the contest. Had they only to choose the strongest post and meet an attack, it had been a simple affair; but there was a tract of flat ground through which an army might pass to the gate of Stirling Castle, and that must be seen to. This tract was therefore honeycombed with pits, and the pits were covered with branches strewn with the common growth of the neighbourhood. This was done, not with the childish expectation of catching the English troops in a trap, but to destroy the ground for cavalry purposes.[1]

On the 23d of June the two armies were visible to each other. If the Scots had, as it was said, between thirty and forty thousand men, it was a great force for the country at that time to furnish. Looking at the urgency of the measures taken to draw out the feudal

[1] Between the slope of the fells and the flat carse the ground undulates. The undulations, in general, have no direction like the fells, but are isolated gravel hills. Of these, however, one portion goes in a transverse direction from the declivity of the fells towards the carse in such manner that one can easily suppose it concealing from those in the upper ground a party moving along the level, close under its shelter, and can also understand how, on this movement being detected, troops could be carried round the shoulder of the transverse mound, so as to come by surprise on those attempting the relief. It is also, from the nature of the ground, easily to be understood how a leader placed where all the field was visible—as, for instance, at the spot now called the "Bore Stone"—could see this attempt, while a leader on duty further down could not. This refers to the ground on which occurred an affair which has to be told as preliminary to the great battle. How far the stream of the Bannock protected a flank must have depended on the preceding weather. In places its banks are steep. It has generally now little volume of water, being diverted for manufacturing purposes. Among the dirty pools in its bed in the filthy manufacturing village, the multitude of large boulders brought down by it show that it has been at times a powerful stream.

array of England, to the presence of the Welsh and Irish, and to a large body of Gascons and other foreigners, it is easy to be believed that the army carried into Scotland might be, as it was said to be, a hundred thousand in all. The efficient force, however, was in the mounted men, and these were supposed to be about equal in number to the whole Scottish army. This great host was apparelled with unusual magnificence. Had it been assembled for some object of courtly display, it would have been a memorable exhibition of feudal splendour. The countless banners of all colours and devices, and the burnished steel coats of the many thousand horsemen glittering in the summer sun, left impressions of awe and admiration which passed on from generation to generation.

There are efforts, not always successful, to describe the exact division and disposal of the Scots army. It seems more important to keep in view the general tactic on which its leader was prepared with confidence to meet so unequal a force. It was the same that Wallace had practically taught, and it had just recently helped the Flemings to their victory of Courtrai. Its leading feature was the receiving charges of cavalry by clumps—square or circular—of spearmen; and simple as it was, it was revolutionising the military creed of Europe by sapping the universal faith in the invincibility of mounted men-at-arms by any other kind of troops. Bruce had a small body of mounted men, but he was not to waste them in any attempt to cope with the English cavalry; they were reserved for any special service or emergency.

For the hopes of Scotland the great point was that the compact clumps of spearmen should be attacked

upon their own ground. But there was a serious danger to be met beforehand. Holding the approaches to the castle from the east was far more difficult than holding the ground of the main army. If any body, however small, of the English army could force this passage, and could reach the castle gate or the sloping parts of the rock, the primary object of the invasion would be accomplished. The castle would be relieved, and the English army, no longer bound to attack the Scots on their own strong ground, could go where it pleased; and in fact this movement, so dangerous to the Scots, had been well-nigh accomplished. It was the duty of King Robert's nephew, Randolph, with a party told off for the purpose, to guard the passage. The king observed that a party of eight hundred horse under Clifford were making a circuit, evidently with the purpose of reaching the passage, and that no preparations were made to receive them. He pointed this out to Randolph with a severe rebuke for his negligence. Burning to redeem his honour, he ran on with a body of spearmen, who planted themselves in the way of the English horsemen, forming a clump with spears pointing forth all over it like the prickles of a hedgehog. The horse attacked them furiously in front without breaking them, then wheeled round and round them, vainly assailing them from all points. From a distance the little party seemed doomed, and Douglas hastened with a following to their rescue, but as he approached the aspect was more cheering. It was not so certain that they were to be beaten, and chivalry forbade him to give unnecessary aid. The assailants had suffered heavy loss. Sir Will d'Eyncourt, an illustrious English knight, was counted among the dead; and the horsemen, breaking up into

confusion, had to retreat to the main army. This was followed by a short and memorable passage at arms. King Robert was riding along the front of his line on a small horse or hackney, conspicuous by a little gold circlet round his head to mark his rank. An English knight, Henry de Bohun, rode forward into the space between the two armies, after the fashion of a challenger to one of the single combats which at that time gave liveliness to the intervals between the serious business of battle. Bruce accepted the challenge. He warded off his enemy's charge, and, wheeling round, cleft his skull with a small battle-axe, the handle of which went to pieces.

His followers blamed him for so rashly risking the safety of the army in his own, and he had nothing to say in his defence. Yet it was not so flagrant as it might be if the like were done in our days. One so thoroughly trained to personal warfare as Bruce must have known the extent of his own resources, and might be able to calculate on the next to certainty of killing his man and on the inspiring influence of such an act.[1]

We can easily believe what is said of this incident shooting a feeling of despondency and apprehension through the English host. It was nothing in itself, but it was an evil portent.

[1] Some histories make him meet the censure of his followers by the flippant remark that he regretted breaking his good battle-axe. This is not in character; and Barbour, who is referred to as authority for the saying, had far too good a taste to put such a decoration on his narrative. He says the king made no answer, but seemed like one mourning over the fragments in his hands.

> "The king them answer made he na,
> But menit his hand ax shaft sa
> Was with the strak broken in twa."

The conduct of a man awakened to the reflection that, successful as it was, his act had been unworthy of his responsibilities.

It was at daybreak on the 24th of June that the English army advanced to the charge. There was a preparatory movement very perilous to the Scots. The English army contained a large body of archers, whose motions on foot and in thin lines were not impeded by the difficulties of the ground. A detachment of these wheeled round and took up a position where they could rake the compact clumps of Scots spearmen. This was a kind of force becoming every year more formidable. It was destined to be the strongest arm of the English army, and on many memorable occasions it inflicted heavy punishment on the Scots. It is difficult to realise the power and precision with which the masters of the art could send a cloth-yard shaft. They could pick out one by one the chinks and joints in the finest suit of Milan mail. To spearmen on foot it was hopeless to contend with them—only cavalry could drive them off. Here then was a use for Bruce's small reserve of cavalry. It charged the archers and dispersed them, and now the clumps of spearmen had to resist the onset of the English cavalry.

These soon found how judiciously the ground had been prepared for them. They were parcelled out in ten battles or battalions, but there was not room to move these separately on the narrow ground available for cavalry, and the whole seemed to their enemy thrown into one unorganised mass, or "scheltum" as they called it. The spearmen stood against the charges of the horsemen firm as a rock. It was one of the formidable features in their method of resistance that a great proportion of the wounds fell to the poor horses, who rushed hither and thither in their agony, or, as

Barbour has it, the horses "that were sticked rushed and reeled right rudely."

In the front anything like combined movement or even ordinary discipline was speedily gone. There they were a mass of brave men well mounted for battle, and many desperate but useless onsets they made as single combatants on their compact enemy. Confusion was getting worse and worse, and only one result could be. It is said to have been hastened by the appearance of a set of camp-followers on the sky-line of a neighbouring hill, who were mistaken for a fresh army of the Scots. The end was rout, confused and hopeless. The pitted field added to the disasters; for though they avoided it in their advance, many horsemen were pressed into it in the retreat, and floundered among the pitfalls. Through all the history of her great wars before and since, never did England suffer a humiliation deep enough to approach even comparison with this.

Besides the inferiority of the victorious army, Bannockburn is exceptional among battles by the utter helplessness of the defeated. There seems to have been no rallying point anywhere. There was enough of material to have made two or three armies capable, in strong positions, of making a troublesome stand, and, at all events, of making good terms. But none of the parts of that mighty host could keep together, and the very chaos among the multitudes around seems to have perplexed the orderly army of the Scots. The foot-soldiers of the English army seem simply to have dispersed at all points, and the little said of them is painfully suggestive of the poor wanderers having to face the two alternatives—starvation in the wilds, or

death at the hands of the peasantry. The cavalry fled right out towards England: why men with English manhood should have done so is a mystery. It was like the Scripture saying that the wicked flee when no man pursueth, for the little band of Scots mounted men were far too small for pursuit, and could not be let loose by any prudent commander among the vast mass of cavalry breaking away.

Perhaps this helplessness in flight, as also many other incidents of disaster, may be attributed to one cause—to the command being taken by the king himself, with his utter incapacity for the task. The only little gathering out of the dispersal of that huge army seems to have been a body of 500 knights who rallied round the king, but it was only to attend him in his headlong flight. To the Lothian peasant the mighty King of England galloping past like a criminal fleeing from justice must have been a sight not to be presently forgotten. The king reached Dunbar, a fortress still in his own hands, and took shipping for Berwick.

The camp apparel left behind by the fugitives made a booty so extensive and so costly as to astound its captors. Scotland, as we have seen, was not an abjectly poor country at the commencement of the war. There evidently was a considerable body living in comfort; but the splendour then coming into vogue in such courts as those of France, Burgundy, and England, seems hardly to have been known in the land. We have seen what poor pickings King Edward took away with him from the royal treasures, yet he certainly did not leave much behind. The costly stuffs and valuables of many kinds found in the English camp became long a tradition in Scotland—indeed the

articles themselves turn up centuries afterwards as remarkable possessions. We have a parallel to the affair in the rich booty which Charles the Bold of Burgundy provided for the Swiss peasantry; but why an English army took with it that heap of finery is not easily to be understood. There is reason to believe that a great part of the rich fabrics found their way to the cathedrals and religious houses, where they served for the adornment of the altars, for ecclesiastical robes, and the like.[1]

Still more valuable than this inanimate merchandise was the living spoil—the crowd of noble captives who had to be ransomed. In this very lucrative kind of booty Bannockburn was peculiarly rich, from the nature of a conflict in which so much was gained by the disabling of the horses rather than of the riders. The ransoming of captives taken in war was then becoming a great trade throughout Europe, and was casting an ugly mercenary stain on the repute of chivalry. Instances were known where lives were taken among the comrades contending for the possession of the captive tenderly preserved from mischief, while in others he had suffered death in the very contention among those who each desired to keep him alive.

In dealing with this business, King Robert resolved to pursue a policy of moderation. He could well afford it. In his troubles and his triumphs, too, he remembered that he was still a Norman knight, and grand beyond

[1] See Robertson's Preface (p. 26) to the Inventories of the Jewels of Queen Mary, to whose possession some of them fell. In an inventory of the decorations of the great altar of the Cathedral of Aberdeen, taken a short time before the Reformation, there is mention of a bundle of robes "ex spolio conflictus de Bannockburne."—Registrum Episcopatus Aberdonensis, ii. 189.

any that ever fell to the lot of man was his opportunity for showing magnanimity to his old companions in arms. There are pleasant stories of his gracious dealing with them: among others, how Marmaduke du Twenge, the same who had made a gallant effort to redeem the day for England in the battle of Stirling Bridge, fell a poor fugitive in the king's way, and, yielding himself up as captive, was treated with a courtesy worthy of his high fame as a knight of prowess. If among his followers there was any tendency towards rapacity in the matter of the ransoms, the king seems to have appeased them by making over to them from the fund arising out of this source a portion properly belonging to himself. In the treatment of the dead, many of them the heads of the most distinguished houses in England, he also gained golden opinions. Much care was taken in their decorous interment with Church rites; and in some instances, where application was made for such a concession, the body was removed to England with all decorous ceremonials, that it might be laid where the illustrious family of the slain man desired that his ashes should rest.

Among the prisoners was one whose story furnished the Scots with a merry jest to grace their triumph. He was a certain Carmelite friar, named Baston; and it was said of him, whether truly or not, that he had been taken to see the battle in order that he might the better be able to perform a certain function assigned to him, which was the celebration of the triumph of the English king as he returned victorious—an expectation which Bower characterises as proud presumption and presumptuous pride. He was told that, as the price of his ransom, he must celebrate the triumph of the real

victors, and that without ambiguity. The result is preserved, and, whatever other merits it may have, shows a laboriously earnest effort to accomplish his task to the satisfaction of his instructors.[1]

Stirling Castle was delivered up in terms of the stipulation. Edward Bruce was blamed for having made it, and given such dangerous terms to England; but the result was fortunate.

[1] For instance, when the great confusion begins :—

" Est dolor immensus, augente dolore dolorem,
Est furor accensus, stimulante furore furorem,
Est clamor crescens, feriente priore priorem,
Est valor arescens, frustrante valore valorem," &c.
—Scotichron., xii. 22.

CHAPTER XXIV.

War of Independence to the Death of Robert Bruce.

EFFECT OF THE BATTLE OF BANNOCKBURN—A PARLIAMENT, AND THE ADJUSTMENT OF THE SUCCESSION—THE BRUCES INDUCED TO BECOME LEADERS OF THE IRISH NATIONAL PARTY—CAUSE OF THE IRISH SEEKING THEM—THE QUESTION OF THE INDEPENDENCE AGAIN BEFORE THE PAPAL COURT—ADVENTURES OF A CARDINAL EMISSARY SENT TO BRUCE—RECAPTURE OF BERWICK—BAFFLED ATTEMPTS OF ENGLAND TO RECOVER IT—RAID ON ENGLAND—A PARLIAMENT—THE SOLEMN ADDRESS TO THE POPE, AND RESOLUTION TO HOLD BY INDEPENDENCE—A GREAT INVASION OF SCOTLAND AGAIN ATTEMPTED—ITS FAILURE, AND THE METHOD OF IT—REVENGE TAKEN BY RAIDS ON ENGLAND—CRUELTY TO THE ENGLISH PEOPLE FOR REFUSING THE ACKNOWLEDGMENT OF INDEPENDENCE—INTERVENTION OF THE POPE—AN EXPEDITION INTO ENGLAND—FROISSART'S DESCRIPTION OF IT—THE TREATY OF NORTHAMPTON—THE DEATH OF BRUCE.

For a few years after the battle of Bannockburn there was little to stir the exhausted country save marauding incursions into England in the old cruel manner. They reached as far as York, and carried terror of the name of Scot into the very heart of England. Yet if such things have a justification, it was furnished by the perversity of the English king or his advisers. King Robert wrote to the King of England, saying there was nothing he so earnestly sought as a permanent good

understanding between the two kingdoms. The King of England appointed commissioners to meet those of Scotland, but he would not concede the independence demanded of him, or treat Bruce as a sovereign.

On the 1st of May 1315 a Parliament was held to adjust the order of succession. The nearest relations of Bruce were his daughter Marjory, his brother Edward, and his nephew Randolph. If the king left a son he was to succeed. It was provided that, should there be no son, there might be a deviation from the pure hereditary rule on account of the necessity of a male ruler for Scotland in its present position. It was set forth that his daughter was the heir-apparent, but she had given her consent to be passed over for Edward Bruce, whose prowess as a warrior would be of infinite value.[1]

Among other provisions for contingencies, some of them far off, should the succession open to a minor, the king's nephew, Randolph of Moray, was to be guardian of the kingdom.

Three years afterwards this arrangement had to be readjusted. Edward Bruce had been killed in Ireland, and the king's daughter, Marjory, had been married to the Steward of Scotland, and had died, leaving a son. By the Act of 1318 that son was heir of the crown, unless King Robert should leave male issue, as he did. By the same Act the principle of the succession to the crown of Scotland was laid down so as to obviate any misunderstanding of the divergence, made by the Act of 1315 for special purposes. The succession, not being subject to partitions like a private fief, was to go first to the male issue of the sovereign in their order of birth,

[1] Scots Acts (Record edition), i. 104.

next to the female issue, and these being exhausted, then to collaterals in the same fashion. The Act is thus an exposition of that pure law of hereditary descent which now renders the succession to the British throne as distinct and certain as any process in the exact sciences. If the principle had been admitted in England as distinctly as it was stated in the Scots Act, there would have been no room for the Wars of the Roses.[1]

The king appears soon afterwards to have gone with a force into the dominions of John of Lorn, which, as the chroniclers say, he brought under his subjection. These Celtic communities had, however, an elastic nature, which enabled them to bear a conquest lightly, and resume their old condition when it was over. The notices of this expedition are of the briefest, and it left no mark in the reduction of these regions under the feudal organisation of the kingdom.

This occurred in the middle of a larger enterprise, which touches, but does not belong to, the history of Scotland. Edward Bruce, the king's impetuous and chivalrous younger brother, was invited to liberate Ireland from the English yoke, and threw himself impetuously into the project. This enterprise, however, was undertaken under conditions which give it an interest in both islands. If the people of Scotland were likely more keenly to resent, and more determinedly to resist, the Norman invaders than the Irish were, yet these were likely, after long continuance, to find the yoke more galling, since their masters brought with them that antipathy of race against race, which is hardened rather than softened by political combination. It was all the worse for the unhappy Celt that the Norman

[1] Scots Acts (Record edition), i. 105.

and the Saxon had common elements of brotherhood, which outgrew the political effect of conquest; this only enhanced the number of the Irishman's oppressors. For the natives there was hardly any law or political protection. In a remonstrance sent by a body of the chiefs to Pope John XXII., they assert, among other grievances, that the murder of an Irishman was not punished as a felony, and that it was held as doctrine, and uttered by the English clergy, that it was no more crime to slay a native than to kill a dog. The chieftains announce that, influenced by these and suchlike intolerable oppressions, they have called for aid on Edward de Bruce, the illustrious Earl of Carrick, brother-german of the most illustrious Lord Robert, by the grace of God King of the Scots, and a descendant of some of the most noble of their own ancestors.[1]

Now that England was making no serious menace—was, in fact, for the time intimidated—any opening for the temporary employment of the fighting men of Scotland seems to have been gladly welcomed; and Edward got the use of a large force. His brother, King Robert, followed him with reinforcements, becoming a leader in a formidable war, as if the future of his own country did not provide him with a sufficient amount of serious occupation. The adventures and achievements of the two are among the most exciting chapters in the romance of war. Many brave Scots were thus lost to their own country in the hour of need that was coming. Among the deaths, the most conspicuous was that of Edward Bruce himself; but

[1] This remonstrance, as given in the Scotichronicon, has been accepted by the Irish archæologists. See Todd's Life of St Patrick, p. 237, and authorities there referred to.

that it was a loss to his country is open to question, for, gallant and popular as he was, his reputation was not of the kind that promises a good pilot in a storm.

There are some mysteries yet to be solved in this curious episode in history, so far as the motives and object of the Bruces are concerned. The natural solution is, that a Norman knight having by his sword achieved for himself a kingdom in Scotland, here was another Norman knight, his brother, who thought he might make a venture for equal fortune in another country where the people were kicking against the English yoke. On the other hand comes the question, whether any tradition of the claims through which the Scots of Albion professed to rule the Scots of Ireland may have lingered, and reappeared to create a mimicry of the English demands of superiority over Scotland, in the theory that Ireland should be held as feudally subordinate to the crown of Scotland.[1]

We now, after an interval of some years, find the political condition of Scotland pressing for serious consideration at the Papal Court. We have seen how thoroughly the merits of the case for Scotland were understood there at the time when Baliol was nominally king. For some time afterwards there came nothing from that tribunal but one or two injunctions to the Scots to preserve peace and order, which were uncertain in their sound, and certainly were not friendly. The remark generally made on this change of tone is, that the Pope was deserting his allies the Scots; but

[1] The chief information, beyond the usual chronicles, about the invasion of Ireland by the Bruces, is perhaps to be found in the Annals of Ireland, by Friar Clyn and Thady Dowling, edited for the Irish Archæological Society by Dean Butler.

in reality it was in the Papal Court as it is in other courts—there were no suitors connected with the disputes in Britain pushing their cause there, and so there was no corresponding business done. Bruce's slaughter of the Red Comyn was a clear case of discipline, apart from all national questions, and excommunication was issued, but it was unheard in the din of war. After the ruin that had fallen on his invading force, the King of England had a keen desire for peace, but the Scots would not let him have it unless he acknowledged their independent sovereignty. Application was made to Rome for a pacificating bull, which was issued. It was addressed to our dearest son in Christ, the illustrious Edward, King of England, and our beloved son, the noble Robert de Bruce, conducting himself as King of Scotland. It lamented the loss of Christian blood in civil wars, when the rescue of the Holy Land was in vain calling for champions, and adjudged a truce between the countries for two years, excommunicating those who might break it.[1]

The Papal Court no doubt acted under the influence of England on this occasion; but Scotland, a country that had been able to free itself and establish a government in thorough co-operation with the local Church, was entitled to serious consideration. There were some internal affairs in England at the same time demanding attention; and the Pope appointed two cardinals on a mission to England, with a staff of assistants and attendants worthy of so august an embassy. They arrived in England in the autumn of 1317. The cardinals sent two messengers, under a safe-conduct, to transact their business with the King of Scots. These

[1] Fœdera (Record edition), ii. 317.

wrote a confidential account of the result to their masters. It described a very curious interview, with a vivacity almost unnatural among the solemn writs of the Papal establishment. The messengers found the king, whose courtesy and affability seem to have had much influence on them. No one was more anxious to stop the effusion of blood; no one more devoutly conscious of the Holy Father's beneficence in making efforts in that direction. Then came the presentation of a sealed missive—perhaps it was a duplicate of a letter of exhortation delivered to the King of England.[1]

King Robert looked at the address. The document was not for him: it was addressed to Robert Bruce, governing in Scotland. He himself was King of Scotland. He became jocular on the indelicacy of opening a letter probably intended for another; he could find several persons of the name of Robert Bruce, who might have a better claim on it than himself. The messengers pleaded the reluctance of the Court of the Holy Father to use any expressions committing him to a side in a temporal dispute. "Exactly," said the king, "but that is just what has been done by depriving me of my title of king." The messengers pressed on him the consideration of dispensing with ceremonials when the interests of humanity were at stake. The king said he would open the missive if Parliament would permit him, but he could not have their decision for some time. The messengers expressed their opinion that, even if the king chose to drop the formal objection, the Parliament would not. They found symptoms of very general indignation at the withdrawal of the title of king; it was set down as an insult done at the demand of England;

[1] Fœdera (Record edition), ii. 317.

and they mentioned that there was a poor man, sent with the usual letters of courtesy on the present Pope's accession, kept hanging on for three months, not being permitted to enter Scotland because he was not accredited to the king. Finally, the messengers prayed of King Robert that he would in the mean time suspend hostilities; but to this he gave a blunt refusal.[1]

Still the cardinals determined to make an effort to proclaim the bull, and got a monk in Berwick to undertake the duty. He found the king in a wood at Old Cambus, busily preparing engines for the siege of Berwick. He would not acknowledge anything not addressed to him as king. The monk preferred two requests—to be allowed to go forward to the Scots clergy and transact his business, or to be sent with a safe-conduct to Berwick. Both were denied; and attempting to find his way back he fell among thieves, who robbed him of all his Papal documents. The monk was of opinion that in this illegitimate form they found their way to "the said Robert Bruce"—and the supposition is probable enough.

A new bull, heaping upon previous offences the contumely thrown on the Papal messengers, was sent to the cardinals, with vehement instructions to enforce it, along with the personal excommunication of Bruce for the slaughter of Comyn. There are certain established channels, however, through which all judicial writs, ecclesiastical or civil, must find their way to the persons affected by them; and through the national sympathies of the faithful clergy, it came to pass that no hostile documents from Rome could be legitimately served within Scotland.

[1] Fœdera (Record edition), ii. 340.

There was perhaps more than one reason why the emissary of the cardinals should not be permitted to return peaceably to Berwick. He had seen, and apparently had examined with a critical eye, the engines which the Scots were preparing for the siege of that town, working at them, as he said, day and night to accomplish their wicked ends.[1] The siege seems to have been a far easier affair than Bruce expected to find it. There had at that time, indeed, fallen upon the English one of those fits of gloom and depression which have been known to visit the bravest nations after very heavy military disasters, and to make them act for a time like a doomed race with whom nothing can prosper. The town was entered almost without resistance, friends within having, it was said, given secret assistance. Even the castle held out feebly, and again their commercial capital belonged to the Scots. It was said that they in their turn found it full of costly merchandise. The English had now possessed it for above twenty years, and trade seems naturally to have flowed to it in their hands as it flowed before. The continual contests surrounding the place afterwards gradually rendered it unpropitious to the merchant and the shipper—it is certain that in later times its harbour was not suited for a maritime trade. It is possible that in the course of centuries the depth of water may have decreased; but probably, like many other deserted seafaring places in Scotland, it could accommodate the small craft of the thirteenth and fourteenth centuries, although insufficient for the heavier vessels of modern times.

This loss seems to have roused the energies of Eng-

[1] Fœdera (Record edition), ii. 340.

land. Bruce determined to preserve the fortress instead of levelling it as he had many others. It would appear, indeed, that the English had replaced the old lumbering fortifications of the Scots with a regular fortress in their own Edwardian style, some remnants of which may still be seen conspicuous among the glacis and counterscarps of that Vauban school which was again to replace the Norman. The acquisition was hence not to be thrown away, and Bruce made immediate preparations against an attack which he knew would exhaust every available resource of the mechanical science of the day. The Scots were then, and for centuries afterwards, poor engineers; they were better soldiers in the field than on the wall, and were often beholden to skilful foreigners in siege work. For the protection of Berwick they had the aid of a skilful Flemish engineer named Crab; and to meet the gigantic operations of the enemy they had need of all he could do for them.

There were some remarkable specialties in the siege suggested by the nature of the ground. On the flat sandy plains to the north great mounds were raised and ditches dug—a fortress, in fact, was constructed to prevent the approach of an army of relief on the side of Scotland. Before it could help Berwick such an army must thus take a place nearly as strong. There must have been reasons, though they are not very distinct, why Bruce should have found it necessary to allow such works to go on. Next an attack of a peculiar kind was made from the sea. It was supposed that from one of the wooden castles then carried by vessels—whence part of a ship is at this day called the forecastle—the city wall might be commanded. The

first attempt of this sort, however, was baffled, and the ship from which it was made was burnt.

Another memorable feature in this siege was the trial of a masterpiece in the kind of movable towers or caravans, which were the prevalent tendency of the engineering accomplishments of the day. There were among these machines cats, wolves, and boars—the present was called a sow. It was, in fact, a timber tower full of men, with their catapults and other machines for assailing the wall, towards which it was moved with enormous labour. It seems to have been clear that if the garrison of Berwick did not destroy the sow, the sow would batter down an entrance in the city wall. The chances between the two issues had run to a critical point, when one of the great stones heaved over the wall by Crab's ingenious mechanism shattered the roof of the sow, and put the movable garrison within at the mercy of the besieged. As these, such of them as were not too sorely crushed under the shattered timbers, crawled out and made off there was great jocularity through the garrison about the sow having "farrowed." For this time the English effort to recover Berwick, tremendous as it was, was baffled.[1]

[1] The sow seems to have become a favourite in England, and to have been used after the introduction of artillery so far down as the great civil wars of Charles I. We have this account of one brought up to attack Canon-Frome, in Herefordshire:—"The engine was such a one as the like hath not been since these wars. The Roysters call it a sow; it was carried upon great wheels, and to be drawn with oxen; it was made with rooms or lofts one over another, musket-proof, and very strong, out of which were holes to play and shoot out. It was so high that it was above all the works at Canon-Frome, so that they could discharge over the works; besides which a door opened to bring them into the works, out of which a bridge went for their entrance."—Vicar's Chronicle, cited Grose, Mil. Antiq., ii. 308.

During the contest, of which Berwick was the centre, parties of the Scots were at the old work in the northern counties of England, with the view, according to the usual phrase, of "creating a diversion" in favour of the garrison of Berwick. There had been two or three attempts by the English, both by sea and land, to retaliate on Scotland, but anything done leaves faint and feeble traces when set beside the terrible havoc worked in the northern counties of England. For a time after the proclamation of the Papal peace there was a profession of observing it in England, but there was none in Scotland; and unless the English were prepared to submit to everything, they must break the Papal peace too. Their chief stand was made in a peculiar manner, intended, no doubt, to bring up in their cause influences against which the arm of the flesh is as naught. The Scots were commanded by Douglas and Randolph—both in the early prime of life, and now, by hard and varied service, thorough adepts in all that a military leader of the day could know or do. Discontent kept away many who should have served in the English feudal force, and the part embodied was exclusively devoted to the siege of Berwick. The defence of the north devolved on the Archbishop of York, under whose auspices an army was improvised. A number of the ecclesiastics, carried off apparently by an expectation of a special intervention, joined this force. They seem to have been utterly untrained in war, and to have known so little of the use of the armour and weapons, that these came as unhandily to them as those of King Saul to David. This motley force met the Scots invaders at Mitton, near Borough Bridge in Yorkshire, on the 20th

September 1319. But not the sacrilege of the Scots in scorning the Papal peace, nor the holiness of the cause which had brought champions from the cloister, nor the sacred sacerdotal character of these champions, could hinder the arm of the flesh from prevailing. Scots spearmen, now thoroughly hardened to war, made a memorable havoc among them. Three thousand is the number said to have been left dead—enough for a critical battle; and the conquerors in their pleasantry called the affair the *Chapter* of Mitton, on account of the prevalence of the ecclesiastical feature among their victims.

The northern counties of England had now suffered for several years from army after army of marauders each treading on the heels of another. What seems surprising is that there should have been in the land people to be attacked or plunder to be removed by those who joined in the later inroads. Yet in that now spoken of the Scots just failed to catch a great prize—no less than the Queen of England sojourning in York. It is more expressive, however, of the desolation made by the invaders, that by a writ of the year 1319 certain towns or villages, more than sixty in number, and many of them recognised market-towns of the present day, are exempted from taxation on account of the utter destitution brought on their inhabitants by the Scots invasion.[1]

Yet all the laws of war, even those of our own time, would justify this terrible and indiscriminate retribution on the English people for the injuries which the Scots had suffered from the English Government. The longer, indeed, that the cruel persecution continued, the more

[1] Fœdera (Record edition), ii. 409.

ample was its justification. Just after the battle of Bannockburn it seemed needless, since the English king might be expected to abandon his claims on Scotland; but all the while Scotland was soliciting peace and the acknowledgment of independence, and all the while her solicitations were thrown back with scorn. The cruel retaliation has the best of justifications—it became in the end effective. England at last spoke of a truce from hostilities, as a preliminary to some ulterior permanent arrangement. It was arranged on the 21st of December 1319, and was to last for two years.

On the part of Scotland, it was at the same time determined to bring a pressure to bear on the Papal Court. To evade responsibility by stopping up the proper official channels through which the writs of the Holy Court had to pass, might serve a temporary turn, but was not a wise permanent policy for a Christian state in that age. The Papal Court, too, showed itself very determined. It was trying the policy of iteration—issuing excommunications and other denunciatory documents in rapid succession, each carrying additional emphasis from the failure of its predecessor. Thus the records of the time are strewed with these fulminations against Scotland, while the nation is supposed to have remained in serene calm, unconscious of the ecclesiastical storm outside. Everything was of course done by England that could be done to give efficiency to the Papal edicts. The occasion of the adjustment of the truce was not lost—in fact, it was improved in a manner creditable to the ingenuity of the King of England's advisers. He could not treat with an excommunicated man like Robert Bruce with-

out obtaining a Papal dispensation for doing so; he applied for the dispensation, and it was graciously conceded.[1]

In a Parliament assembled in the Abbey of Arbroath, a solemn address to the Pope was adopted on the 6th of April 1320. In the last appearance before the Papal Court, Scotland had made a powerful impression. The country had since let the enemy get the ear of that tribunal, with no perceptible effort to counteract the influence; and had borne, almost unmoved, the torrent of Papal invective consequently scattered against it. And now, in making once for all a great remonstrance against the wrongs thus accumulated on the nation, the Scottish Parliament were successful in accomplishing their object, with a becoming and mournful dignity that has made their remonstrance illustrious among the utterings of national wrongs and appeals for national mercy and justice. At the beginning a word is said in answer to the English fabulous genealogies which carried back the subjection of Scotland to the Trojan line of succession; but this is quickly abandoned, and Scotland pleads her immediate cause, thus:—

The country had been in peace and content, and unpractised in war, when the great King of England, finding it so and without a head, under the guise of friendly intervention, attempted to destroy its liberties and conquer it for himself. These acts of rapacity and cruelty are set forth, and emphasis not too strong is judiciously laid on the ruin brought by him on ecclesiastics and religious establishments. Then came the deliverer and

[1] "Ad Papam pro licentia habendi tractatum cum Scotis quamvis excommunicatis."—Fœdera (Record edition), ii. 391. "Bulla de licentia tractandi de pace cum excommunicatis."—Ibid.

the restorer of freedom, whose achievements for the country are acknowledged with a fervent and decorous gratitude. To him, for what he has achieved for them, the people of Scotland are bound to adhere; yet, to show that their determination not to submit to England predominates over every other feeling, they assure the Pope that if their beloved king were to submit to the supremacy of the King of England, they would cast him forth and choose another ruler; for so long as a hundred of them remain alive they are determined not to be subject to the King of England. By all the considerations of love and mercy that should influence the head of Christianity, his Holiness is besought to interpose and move the heart of the King of England to leave the Scots to the enjoyment of their liberties in their own remote and obscure corner of the world. The concluding sentences draw persuasive arguments out of matter which had been giving much trouble and uneasiness to the Court of Rome—the degeneracy of zeal among Christian princes for the defence of the Holy Land against the Saracens. The Scots nation were willing to join in the good cause, but they could not while a powerful neighbour's aggressions bound them to the defence of their homes and liberties.[1]

[1] No abridgment can convey a fair notion of this memorable document: indeed, much of its power and terseness is lost in translation from the Latin original. Among such translations as the Author has noticed, the most spirited was printed at the time of the Revolution of 1688, and reprinted in 1820 in the collection called Miscellanea Scotica. It is more spirited than the others, because, instead of attempting to retain the terseness of the Latin, it expands into tolerably idiomatic English. The following is the essential part—that which follows on the short exordium about the antiquity of Scotland:—

"Upon the weighty consideration of these things, our most holy fathers, your predecessors, did with many great and singular favours and priviledges, fence and secure this kingdom and people, as being the

As appropriate to this point, the Pope's memorialists venture on a general political remark. They say that the great states are entirely occupied in attempts to subdue their weaker neighbours. It was quite true.

peculiar charge and care of the brother of St Peter; so that our nation hath hitherto lived in freedom and quietness under their protection, till the magnificent King Edward, father to the present King of England, did, under the colour of friendship and allyance, or confederacie, with innumerable oppressions, infest us, who minded no fraud or deceit, at a time when we were without a king or head, and when the people were unacquainted with warres and invasions. It is impossible for any whose own experience hath not informed him to describe, or fully to understand, the injuries, blood, and violence, the depredations and fire, the imprisonments of prelates, the burning, slaughter, and robberie committed upon holy persons and religious houses, and a vast multitude of other barbarities, which that king execute on this people, without sparing of any sex, or age, religion, or order of men whatsoever.

"But at length it pleased God, who only can heal after wounds, to restore us to libertie from these innumerable calamities, by our most serene Prince King and Lord Robert, who, for the delivering of his people and his own rightful inheritance from the enemies' hands did, like another Josua or Maccabeus, most chearfully undergo all manner of toyle, fatigue, hardship, and hazard. The Divine Providence, the right of succession by the laws and customs of the kingdom (which we will defend till death), and the due and lawfull consent and assent of all the people, made him our king and prince. To him we are obliged and resolved to adhere in all things, both upon the account of his right and his own merit, as being the person who hath restored the people's safety, in defence of their liberties. But, after all, if this prince shall leave these principles he hath so nobly pursued, and consent that we or our kingdom be subjected to the king or people of England, we will immediatly endeavour to expell him as our enemy, and as the subverter both of his own and our rights, and will make another king who will defend our liberties: for so long as there shall but one hundred of us remain alive, we will never give consent to subject our selves to the dominion of the English. For it is not glory, it is not riches, neither is it honour, but it is liberty alone that we fight and contend for, which no honest man will lose but with his life.

"For these reasons, most reverend father and lord, we do, with most earnest prayers, from our bended knees and hearts, beg and entreat your holiness, that you may be pleased, with a sincere and cordial piety, to consider that, with Him whose vicar on earth you are, there is no respect nor distinction of Jew nor Greek, Scots nor English, and that, with a tender and fatherly eye, you may look upon the calamities and straits

The states that were to be the great powers of Europe were then in rapid growth, and the food on which they grew was the small, separate, feeble states scattered round them.

brought upon us and the Church of God by the English; and that you may admonish and exhort the King of England (who may well rest satisfied with his own possessions, since that kingdom of old used to be sufficient for seven or moe kings), to suffer us to live at peace in that narrow spot of Scotland, beyond which we have no habitation, since we desire nothing but our own, and we, on our part, as farr as we are able, with respect to our own condition, shall effectually agree to him in everything that may procure our quiet.

"It is your concernment, most holy father, to interpose in this, when you see how far the violence and barbaritie of the Pagans is let loose to rage against Christendom for punishing of the sins of the Christians, and how much they dayly encroach upon the Christian territories. And it is your interest to notice, that there be no ground given for reflecting on your memory, if you should suffer any part of the Church to come under a scandal or ecclipse (which we pray God may prevent) during your times.

"Let it therefore please your holiness to exhort the Christian princes not to make the warres between them and their neighbours a pretext for not going to the relief of the Holy Land, since that is not the true cause of the impediment; the truer ground of it is, that they have a much nearer prospect of advantage, and farr less opposition, in the subduing of their weaker neighbours. And God (who is ignorant of nothing) knows with how much chearfulness both our king and we would goe thither, if the King of England would leave us in peace, and we doe hereby testifie and declare it to the Vicar of Christ, and to all Christendom.

"But, if your holyness shall be too credulous of the English misrepresentations, and not give firm credit to what we have said, nor desist to favour the English, to our destruction, wee must believe that the Most High will lay to your charge all the blood, loss of souls, and other calamities that shall follow on either hand betwixt us and them.

"Your holiness, in granting our just desires, will oblidge us in every case, where our duty shall require it, to endeavour your satisfaction, as becomes the obedient sons of the Vicar of Christ.

"We commit the defence of our cause to Him who is the Soveraigne King and Judge, we cast the burden of our cares upon Him, and hope for such an issue as may give strength and courage to us, and bring our enemies to nothing. The most high God long preserve your serenity and holyness to his holy Church."—Miscellanæ Scotica, iii. 125-128.

This is entirely a lay document, and for some special reason the clergy

The Scots memorial had an immediate effect at the Papal Court; the character of that effect, as it may be gathered from the documents that followed, might be pronounced as staggering. The fulminations against Scotland at once stopped, but those which had gone forth were not immediately revoked. An admonitory bull, dated at the end of July, was addressed to King Edward. It did not show acquaintance with the nature of the dispute on either side. It exhorted the king to consider whether after all it would not be better to come to some terms with the governor of the king-

are not mentioned as concurring in it as they concurred in the other legislative acts and national state papers of the day. It is in the name of the barons, the free tenants, and the whole community of Scotland; but the names of the most eminent barons are given—and the list is valuable, as giving us the avowed heads of the national party at that time. They are—Duncan, Earl of Fife; Randolph, Earl of Moray; Patrick de Dunbar, Earl of March; Malice, Earl of Strathearn; Malcolm, Earl of Lennox; William, Earl of Ross; Magnus, Earl of Caithness and Orkney; William, Earl of Sutherland; Walter, the Steward of Scotland; William de Soulis, Butler of Scotland; James, Lord of Douglas; Roger de Mowbray; David, Lord of Brechin; David de Graham; Ingleram d'Umfraville; John of Menteith, Custos of the Comitatus of Menteith; Gilbert de Hay, Constable of Scotland; Robert de Keith, Marishal of Scotland; Henry de St Clair, John de Graham, David de Lyndesay, William Oliphant, Patrick de Graham, John de Fenton, William de Abernethy, David de Wemyss, William de Montfitchet, Fergus de Ardrossan, Eustace de Maxwell, William de Ramsay, William de Monte Alto, Allan de Murray, Donald Campbell, John Cambroun, Reginald le Cheyne, Alexander de Seton, Andrew de Lascelyne, and Alexander de Straton.

In the hall of the General Register House for Scotland may be seen the duplicate of this address to the Pope, which was preserved at home. It is worn and a little decayed, but has been preserved on the whole with such pious care that few words are illegible. Many of the seals still dangling to it show clear impressions in their green or red wax. It was engraved by Anderson for his Diplomata, and printed by Sir George Mackenzie in his tract on Precedence. A facsimile of the parchment, seals and all, is contained in the first volume of the Scots Acts; another has been in preparation for the Collection of Chronicles and Records to be edited under the auspices of the Lord Clerk Register.

dom of Scotland. These wars, it was said, created sad misery and devastation, and it was ever uncertain how they might end; and there was the cause of the Holy Land neglected and the Paynim unchecked, while the potentates of Christian Europe were brawling among each other.[1] Presently afterwards the Pope writes to say that two commissioners and ambassadors were pleading the cause of the Scots before him—Edward de Mambuisson and Adam de Gordon. They prayed for the relaxation of the interdicts and other Papal writs issued to the detriment of Scotland; but the Pope said he did not find it among their credentials or instructions that they were to make such an application to him. He would grant no relaxation, but he agreed to suspend the question until the calends of April. It was the postponement of a difficulty on a point of form—a common resource in the holy tribunal as in many others.[2]

Admonished by the Papal Court, beset with difficulties in England, and harassed by a Scots invasion of the usual kind immediately on the conclusion of the truce, there seemed nothing for it but to submit to the humiliation of treating for good and all with Scotland. Twelve commissioners were appointed—four to be a quorum—with power to treat with Scotland for a permanent settlement.[3] But presently afterwards King Edward was victorious over his dangerous home enemy, Lancaster, and there was an immediate change in the policy of England. This was in very triumphant terms announced to the Papal Court, with an assurance that no more trouble would be given about truces or other difficulties in the matter of Scotland. His Holiness had, out of his beneficence, interposed to give a breath-

[1] Fœdera (Rec. ed.), ii. 431. [2] Ibid., ii. 432. [3] Ibid., ii. 440, 441.

ing space, and Edward in his hour of need had been glad of it, but he required such help no more. By the blessed God's favour his hands were now free at home in England, and he was to take the proper steps to set matters right elsewhere.[1] This was early in 1322. Again there were preparations for a great and final invasion of Scotland. But the country was stronger than it had been eight years before, and was not compelled by the force of circumstances to risk a critical battle on a given day and at a given spot. To give England a foretaste of the character of the new war, the Scots began it by a raid across the border, as far as Lancashire, where, according to the accounts of the day, they swept away with them in their usual light-handed manner a booty well worth their pains—though how their previous pillaging should have left anything in that part of England worth carrying off is a mystery.

In midsummer a great English army was again ready to invade Scotland—the chroniclers say, as they did of the army defeated at Bannockburn, that it numbered a hundred thousand men. The policy of the Scots was the same that Wallace tried before the battle of Falkirk, to leave the enemy to march over bare fields, and to keep clear of a battle. The people in the southern counties had gradually assimilated themselves to the conditions of such a warfare. They lived in huts which, if the enemy thought it worth while to destroy them, could be easily rebuilt with the stone and turf at hand. Their agricultural riches were far less than they had been before the war began, and they had got into the way of scampering off on the shortest

[1] Fœdera (Record edition), ii. 481.

notice with their poor belongings, getting in among those broken uplands not far distant from any part of the country, where they were out of the way of the march of heavily-appointed armies like those which England now sent forth.

It had come well on to August when this new army crossed the border; but the harvest cannot have advanced so far as to afford any available food, for we are told that all along as they went was blank famine. There was much jocularity about their obtaining near Tranent, in East Lothian, a bull—a poor lame beast left behind when its brethren were driven to the hills. The Scots army waited beyond the Firth of Forth, leaving the invaders in the hands of a deadlier enemy—starvation. This, according to the English accounts, did its work with signal effect while the army was still in the Lothians. That within a day or two's march of their own frontier an army should have been so utterly ruined, as the English chroniclers tell us, is astounding, from the almost inconceivable carelessness it reveals in the preparations for invasion. The disastrous picture is completed when we are told that the starved wretches who were able to drag themselves across the border died in multitudes, from the rapacity with which they fell upon the food presented to them on English ground.[1] The Scots chroniclers charge the retreating army with the destruction of the Abbeys of Holyrood and Melrose, and the Monastery of Dryburgh.[2]

[1] The most distinct account of the affair on the English side will be found in Walsingham (Rolls edition), i. 166.

[2] Scotichron., xii. 4. About this period we may take Bower as an authority, making allowance for his prejudice against England. He cannot be quite correct in saying that Dryburgh was entirely reduced to

The Scots army was on this occasion able to do what Wallace had intended—hang on the heels of the fugitives, and harass them in every shape. Here was another of those marauding invasions of the north of England, so numerous that it is difficult to remember their order of succession. The inhabitants seem to have taken example from Scots practice, and to have learned to drive their cattle southward. This is attested by royal warrants to the Sheriff of York and his assistants, directing them to see that the animals are hospitably received within their jurisdiction.[1]

King Edward was resting in Billand Abbey when the alarm came that the Scots were upon him. Luckily for himself he did not trust his safety to his own camp, strongly posted in the neighbourhood, but took flight, pursued by the Steward at the head of five hundred men, until he got safe within the gates of York. The Scots were in good force under their king and Randolph, and they determined to drive the enemy from their position on a rocky eminence; these might be called an army in a fortified camp, but were in truth rather a body of dispirited refugees seeking safety. They were dislodged by small parties climbing up into the broken ground which protected them, and it is said that in this duty King Robert got good service from some of the "Irishry" of Argyle and the Isles, who formed part of his army.[2] So dislodged from their strength, they were dispersed, with loss in killed and captives.

About this time the English Government seem to

powder, since part of the building yet remaining is of an older date than the invasion.

[1] There are two of these contemporary with the Scots inroads before and after the English invasion.—Fœdera (Record edition), ii. 490, 496.

[2] Barbour, cxxxvi.

have become awake to a very alarming feature bearing on their dispute with Scotland. It would naturally be supposed that the sufferings of the northern counties from the ceaseless incursions of the Scots would embitter the inhabitants and their leaders against the enemies of their king. On the contrary, a feeling seems to have arisen that the King of England was unable to protect them, and that the King of Scots might be a more desirable master. There had been of old much community of feeling between these northern districts and their neighbours of the Lothians, and the traditions that they had formerly been one community were probably still alive. Through the course of the war occasional instances turn up where persons of influence in the old disputed districts are found on the side of the Scots.[1]

In occasional letters of Remission, in which Edward II. offered to receive into his peace all those of the Scots nation who might proffer their allegiance to him, it was specially stipulated that the privilege was not to extend to such native-born inhabitants of England as had taken part against him.[2]

In January 1323 King Edward wrote to Hartela, Earl of Carlisle, the Warden of the Marches, stating his astonishment at hearing that the earls, barons, and knights of the northern counties had been adjusting on their own account a truce with the Scots, enemies of the crown, and severely rating his warden—whom he suspected not to be ignorant of this affair—for not

[1] "In 1319 Thomas Gray was, for good services against the Scots, gifted with certain lands in Howick, near Alnwick, forfeited by reason of their owner, John Maitland, having joined the Scots."—Introduction to Scalacronica, xix., xx. See the instance of De Ros above, p. 299.

[2] Fœdera (Record edition), ii. 440.

having at once informed his sovereign of it.[1] The person, indeed, whom he thus addressed was deeply implicated in the secret treaty. When Lancaster was strengthening himself against the king, he was in correspondence with Randolph and other leaders of the Scots; and it is pretty clear that his object was to gain the northern barons to himself by an arrangement which would exempt them from these devastating inroads of the Scots.[2] Lancaster was defeated and executed, and as a reward for effective aid in this service Hartela was received into royal favour, became Earl of Carlisle, and was intrusted with the onerous duty of guarding the marches. Whatever mystery may attend Lancaster's movements, it is clear that Hartela went decidedly into the project of the northern barons for a separate understanding with Scotland. The letter just cited was addressed to him while he was believed to have concealed what he should have told. We next find a proclamation for Hartela's capture as a traitor. He was seized, and charged with employing the influence he had acquired through the high offices of trust conferred on him, in treating with the king's enemies of Scotland; and he was executed after the usual manner of a traitor in England.[3] It is in harmony with this strange piece of by-play in the history of the war, that in the ensuing negotiations King Robert put in a claim of dominion over the old debated land north of the Humber. If this was done merely as a threat, to weigh against the determination on the other side not to acknowledge the independent sove-

[1] Fœdera (Record edition), ii. 502.
[2] Proceedings against the Earl of Lancaster, State Trials, i. 44.
[3] Fœdera (Record edition), ii. 504, 507, 509.

reignty of Scotland, it would have all the more weight that things had occurred to render the fulfilment of such a demand not utterly chimerical.

Such considerations, taking weight from the warlike spirit of the Scots and their continued success, pressed urgently on the Government of England the establishment of a permanent peace, and the question what should be given for it was solemnly discussed in a great council. The great difficulty was the acknowledgment of independence. Apart from the general desire of every party in diplomacy to give as little and take as much as possible, it was natural that England should try to keep the name at least of the great conquest to the very last. But it was a point on which the other party were absolute in their general demand, and sensitive to everything that appeared evasive. King Robert put into the conferences an angry remonstrance against a form of truce, in which the people of Scotland were the party dealt with, maintaining that it was more insulting than its predecessors, which, if they did not acknowledge a king, at all events professed to treat with a government. The affair resolved itself into a sort of compromise or sufferance. Bruce and his people were permitted to *take* the titles of king and kingdom, but England would not *give* them. On the 7th of June 1323 King Robert issued a solemn instrument accepting of a truce, or rather of a permanent peace, for his kingdom of Scotland. It was the concluding document in the negotiation, and otherwise than through its tenor the cessation of war so much desired by England did not exist.[1]

[1] "Forma Treugæ, per Robertum de Brus signatæ, in promis prætermisso, sed at finem titulo regis expressato."—Fœdera (Record edition), ii.

The peace was to last for thirteen years, so that before it came to its natural close each country would have an opportunity of gathering its fruits. To England it was an immediate relief from a heavy pressure, and it was hardly concluded when writs were issued, dispensing with the attendance of the chiefs of the Irishry and of certain Gascon levies, called out to assist in the war against Scotland.[1]

It was now of moment that Scotland and the king should be put right with the Papal Court. A missionary, who would not have been expected to undertake such a duty, agreed to go to Avignon, where the court then was, and try what his diplomatic skill could do for his country. This was the king's nephew, Randolph, Earl of Moray. He was, as we have seen him at Bannockburn, a hardy warrior, not bred in a school likely to send forth pupils who could cope with subtle ecclesiastics in diplomacy: yet he seems to have had wonderful success. As strange as the mission itself is the source whence we know about it—a bull addressed by the Pope to King Edward in January 1324, in which his Holiness describes his interviews with the Scotsman with a distinct minuteness, closely approaching to gossip. He tells how the noble Earl of Moray, having obtained an audience, spoke of his anxiety to do service in the Holy Land in fulfilment

524. We have only the copy of this document as preserved in England, and it is somewhat confused, as if mixed up with others, but it contains the essential clause: "Nous, Robert Roi d'Escoce avandit, par assent des evesques, countes, et barones de nostre roialme, les dites soeffrance et trieve, et toutes les choses susescrites, et chescune de les pur nous, nos soutzmis aeredauntz et aidauntz, et pur notre roialme d'Escoce avandit voloms, looms, ratifioms, aggreoms, et de certeine science approvomes." For the preliminary documents in the negotiations, see Fœdera (Record edition,) ii. 510, 511, 518, 521, 523.

[1] Fœdera (Record edition), ii. 523.

of a vow made by him; and prayed that he might receive at the holy father's hands the licences and indulgences usually bestowed on those so devoting themselves. The Pope, by his own account, declined the request; his petitioner was but an individual man, who could not do much in his own person for the great cause; and in the granting of his request there were heavy spiritual disabilities to be taken off him as one of an excommunicated people. He went on, however, to speak of the unhappy discords between King Edward and the Scots—how blessed a thing it would be, not only for the contending parties but for all Christendom, that their contest should come to an end, and how opportune for the cause of the Christian contest in the Holy Land. If the noble earl would turn himself to giving effective service towards such a pacification, then the Pope would be ready to favour him, always provided that his country had submitted to the proper steps for reconciliation with holy Church.

Randolph immediately explained that ambassadors had been formally appointed to lay the case of Scotland before his Holiness and plead for reconciliation, and in humble manner he requested that his Holiness would grant to them a safe-conduct to travel towards his presence. The Pope refused to provide them with such credentials; but promised to issue letters, apostolical, requisitorial, and monatory, requiring the potentates through whose territories they had to pass, to look to their safety:—the difference seems to have been that the Pope would not address to these excommunicated persons a document in their favour, but had no objection to direct others to help and protect them. Randolph then said that it was the earnest desire of

his uncle, the King of Scots, to join King Philip of France in an expedition to the Holy Land—and indeed, even if Philip of France should not carry out his intention, to send a Scots expedition, headed either by himself or by his nephew, then propounding the matter to the Pope. To this it was answered, that such an expedition would not be seemly while his uncle continued at enmity with the King of England and unreconciled to Holy Church, and his Holiness could do nothing to further it. Here the matter seems to have come to the desired point. Randolph explained that there was no man more devoted and dutiful to Holy Church than his uncle. He was desirous to do whatever was required of him to show his duty and obedience, if he knew how. But, unfortunately, he had hitherto been prevented by technical mistakes from knowing the pleasure of the Holy Father regarding him. Once knowing it, Randolph gave assurance that he would be found a thoroughly dutiful son. And to make it known to him there was a simple method—address future exhortatory letters to him by the title of King. The Pope admitted that he consented to this; and it was to explain, and indeed virtually to apologise for, such consent that he wrote so fully to King Edward. The missive ends with some mumbling arguments, to show that no harm could really be done to King Edward. Edward, however, remonstrated angrily against this easy way of treating a vital question. On the whole, the impression left by the Pope's account is, that the rough Scots soldier had overreached him in diplomatic subtlety.[1]

[1] Fœdera (Record edition), ii. 541: "Bulla Papæ de colloquio inter ipsum et comitem de Murref et super titulo 'Regis' in literis ad Robertum

The next event of moment bearing on the position and external relations of Scotland is the conclusion of a treaty with France. It was negotiated by Randolph, with the assistance of the Earl Marishal and three churchmen. The state of the succession to the crown in France gave ground for apprehension, should there be an ambitious king of England of the Plantagenist race, and the great object of the Treaty of Cerbeil, as it was called, was to make common cause against England. Certain stipulations are mutual. Any peace between France and England ceases if there is war between England and Scotland, and so of any peace between England and Scotland should there be war between France and England. But besides these negative conditions, as they may be called, there was one positive condition laid on the Scots side alone—whenever England and France are at war, then is the King of Scotland to invade England with all his might.[1]

In 1327 came that tragic revolution in England which placed the boy Edward III. on the throne. It was the custom then for new monarchs to renew the obligations of their predecessors; and a renewal of the truce was offered in the name of Edward III., but it was in

de Brus scribendis." If this bull be entered of its proper date, it is difficult to understand how it should not have come up in the course of the dialogue that a peace with England had been established for upwards of half a year. For Edward's remonstrance, see Fœdera, ii. 549.

[1] Memoirs of the Ancient Alliance between France and England, Reprint, 1820. It is perhaps to be regretted that we have no better authority than this collection for the express terms of the treaty, but they are in conformity with the general tenor of French treaties, and with the stipulation in the Treaty of Northampton, which, in binding the Scots to peace with England, exempts them from the obligation when the terms of the alliance with France require them to be at war. A copy of the treaty is referred to in Robertson's Index to the Charters, p. 106.

the old offensive shape—in favour of Robert Bruce and his adherents. At the same time authority was given in the same terms to treat for a final peace. The English records show several documents, after the signing of the truce, to the same effect. It is difficult to see how, having obtained a truce or peace for thirteen years, England should be so desirous to obtain a final and lasting peace, and yet should ask for it in terms which she knew would preclude the Scots from treating.[1] The whole affair suggests a suspicion that the object was to obliterate or neutralise the effect of any document in which Bruce stood on record as King of Scots. Other things tended with this to irritate the Scots. The English Government continued to pester the Papal Court to resume the denunciatory writs against Scotland. In 1324 Edward Baliol, the son of him who had held the title of King in Scotland, was brought over to England with much solemnity as an illustrious person.[2] After-events revealed a deep motive in this. The Scots, in short, were determined to bring the truce to a practical stop by one of their old inroads. Vast preparations were made on the other side, and we are told, besides the feudal levy, of the splendidly-mounted knights from Hainault, Flanders, and other states, as far as Bohemia, who flocked to reap knightly renown under the banner of the King of England.[3]

The "good King Robert," as his people were in use to call him, was now justified by age and infirmity in declining military duty, but the expedition was committed to the thoroughly competent hands of

[1] Fœdera (Record edition), ii. 561, 576, 577.
[2] Ibid., ii. 558, 567.
[3] Froissart, chap. xv.

Douglas and Randolph. As it was to be a flying expedition to scour the country, the men were mounted. Their horses were utterly unlike the heavy war-steeds of the French or English cavalry. They were not for battle, but to bring the fighting men to their ground, and were of a small wiry breed, easily fed, and capable of bearing great fatigue. This expedition had the fortune to interest the great master of narrative and description—Froissart. He took a keen delight in mastering all the specialties and practical details connected with remarkable instances of chivalry or daring. Thus the marvels of the Scots expedition excited his curiosity; and though he was not born until a few years after it, everything he says is so true to the nature of the country and of the people concerned, that there is little doubt of his having got his information by closely questioning eyewitnesses of the affair. He at once brings on the stage the Scots troops with vivid distinctness in all the peculiarities in which they differed from the heavy chivalry of the day. No train of baggage-waggons followed them; they rode lightly, with no other camp-furnishings but the thin iron plate on which they baked their oatmeal bannock, as the Scots of the north do still. Their food they picked up as they went—sometimes more than they needed; but when it was scant, their hardy training kept them still fit for duty; and so they swept the country, plundering and burning.[1] Froissart makes up the number of

[1] "They bring no carriages with them, on account of the mountains they have to pass in Northumberland; neither do they carry with them any provisions of bread or wine; for their habits of sobriety are such, in time of war, that they will live for a long time on flesh half sodden, without bread, and drink the river-water without wine. They have, therefore, no occasion for pots or pans, for they dress the flesh of their

this army to twenty-four thousand. His enumeration of the English force mounts to sixty-two thousand. "It was said that there were eight thousand men-at-arms, knights, and esquires, and thirty thousand men armed and equipped, half of whom were mounted on small hackneys; the other half were countrymen on foot, sent by the towns and paid by them. There were also twenty-four thousand archers on foot, beside all, the crew of followers of the army." So they marched onwards from York, where they mustered—a noble army, fit for great achievements, could they have but found an enemy to fight with. As they went, the distant flames and smoke from burnt homesteads and villages showed them the track of the enemy, but to come face to face with them was impracticable. But they soon lost sight even of such distant traces of their nimble enemy, as they moved in heavy marching order, with all the camp apparel. It was resolved, therefore, to adopt, as far as possible, the device of the enemy, and follow them unencumbered. It was in an evil

cattle in the skins, after they have taken them off: and being sure to find plenty of them in the country which they invade, they carry none with them. Under the flaps of his saddle each man carries a broad plate of metal; behind the saddle, a little bag of oatmeal: when they have eaten too much of the sodden flesh, and their stomach appears weak and empty, they place this plate over the fire, mix with water their oatmeal, and when the plate is heated, they put a little of the paste upon it, and make a thin cake, like a cracknel or biscuit, which they eat to warm their stomachs: it is therefore no wonder that they perform a longer day's march than other soldiers. In this manner the Scots entered England, destroying and burning everything as they passed. They seized more cattle than they knew what to do with. Their army consisted of 4000 men-at-arms, knights and esquires, well mounted; besides 20,000 men, bold and hardy, armed after the manner of their country, and mounted upon little hackneys that are never tied up or dressed, but turned, immediately after the day's march, to pasture on the heath or in the fields."—Froissart's Chronicles of England, France, &c., i. 18.

moment that this plan was formed. It was taken for granted that the Scots must repass a ford of the Tyne by which they had passed southwards, so the English army crossed that ford, and formed on the northern side, to attack the Scots as they recrossed. It was not then their intention, however, to cross; in fact, they were away southward at their work of pillage. For a whole week did the English army wait at that ford, and the miseries they suffered—a large army in their own country—are such as one only hears of in accounts of poor fugitives in a strange land, surrounded by enemies. They seem to have had difficulty in finding out where they were, until they learned that they were about half-way between Carlisle and Newcastle, with no nearer place whence they could draw supplies. For the first three days they could get little or no food; during the other four they drew a scanty supply by distant foraging. Then it rained day after day, as it is apt to do in that region, and, uncovered as they were, everything about them was soaked, and the very leather of their accoutrements rotted. This inaction and suffering became intolerable, and the army crossed back over the river, and resumed a march as vague and purposeless as its watching had been. A proclamation was issued in the king's name, offering knighthood and an estate of a hundred a-year to him who could tell where the Scots army was. After four more weary days' march a horseman came galloping to the camp to claim the reward. He had found the Scots, and had been taken prisoner by them. When he told them of the reward, they sent him off to gain it, saying they had been waiting a week for the English army, and were as impatient to receive them as they could

be to attack—and now they were but three leagues off. The joy attending this information was somewhat damped when the army came up to the enemy. These were posted on a ridge of strong rocky ground, with a rapid stream—the Wear—in front. It was hopeless to assail them.

The English now tried a plan peculiar to the fashionable notions of the period. They put it to the chivalrous feeling of the Scots, whether they would abandon their advantages and have a fair stand-up fight. Either the English would move backwards, and give the Scots an opportunity of coming over to their side; or, if the Scots would courteously give them an opportunity, the English would go over to their side and fight them. Such concessions were not uncommon, and were much admired as a high development of the spirit of chivalry. But the Scots had too serious a stake in hand to sell it for such empty distinctions. They gave a rather scornful refusal to either alternative. There they were, who had invaded the dominions of the King of England, plundering and destroying at their will; and if they had in this offended him, let him come and punish them.

The English were still half-starved, while the Scots, who could better have stood such a fate, were well stocked with English-fed beef and mutton. They seem to have tried to aggravate the contrast by extravagant pretences at roistering joviality, and indulged, as the foreign historian says, in "such a blasting and noise with their horns, that it seemed as if all the great devils from hell had come there." The English plan was now a blockade to starve them out. On the morning of the fourth day after their arrival the English could scarcely credit their eyes when they beheld the

crowded rock of yesterday untenanted. The Scots had moved off to other ground of the same kind, which suited them better, as it gave them communications in the rear through marshy ground, which they could easily defend.

The blockade recommenced, but the English army was not allowed to be entirely inactive. On the first night a cry arose in camp that the Black Douglas was upon them. He had swept round from a distance with some two hundred followers, on a small episodical raid, not without some hope, it was thought, of kidnapping the young king; but he had to retreat without that prize, after doing a good deal of mischief.[1] The English waited on eighteen days, expecting that famine would come to the Scots, and compel them either to submit or fight. On the last day there was reason to suppose that they were driven to the second alternative, and the expectation was matter of much serious consideration, weakened as the English army now was. From such anxiety they were relieved next morning by finding that their enemy had again disappeared. They were many miles off on their way home before they were missed. The English could hardly believe in this second evasion, until some of them cautiously crept into the camp, where they found evidence that their enemy was still far from starvation.[2] There was nothing for it now but to let the remains of that bril-

[1] Hemingford, 268.

[2] "Some of the English, however, mounted their horses, passed the river, and went to the mountain which the Scots had quitted, and found more than 500 large cattle, which the enemy had killed, as they were too heavy to carry with them, and too slow to follow them, and they wished not to let them fall into the hands of the English alive. They found there also more than 300 caldrons, made of leather with the hair on the outside, which were hung on the fires full of water and meat, ready for

liant army be dispersed. It was a sorry first experience in warfare to the heroic Edward III., and must have sadly humiliated England in the estimation of the foreign levies, were it not that these had their own share in the almost inconceivable mismanagement of the campaign.

When the expedition returned to Scotland there was immediate preparation for another against the eastern counties; and it was begun by the seige of Norham. England was suffering from debt and internal difficulties; and if such invasions were repeated, there was every chance of Scotland annexing the old debated land. It was time at last to treat on such terms as the Scots would listen to. A truce was adjusted in the mean time. Next, at a Parliament held at York in January 1328, a document was prepared and issued in the king's name, acknowledging the independent sovereignty of Scotland. It is discursive in solemnities, as such documents were in use to be, but in the essentials it is quite clear. The King of England declares for himself and his heirs, that the kingdom of Scotland shall remain for ever to the great prince, Lord Robert, by the grace of God illustrious King of Scotland, and to his heirs and successors; and that Scotland, by its old marches in the days of King Alexander, shall be separated from the kingdom of England, and free of all claim of subjection or vassalage, while all writings or

boiling. There were also upwards of 1000 spits with meat on them, prepared for roasting; and more than 10,000 pairs of old worn-out shoes, made of undressed leather, which the Scots had left there. There were found five poor English prisoners, whom the Scots had bound naked to the trees, and some of them had their legs broken; they untied them, and sent them away, and then returned to the army just as they were setting out on their march to England, by orders from the king and council."—Froissart's Chronicles of England, France, &c., i. 24.

obligations inconsistent with this independence are to be cancelled.[1]

It was but putting the transaction into proper diplomatic shape, that all objection to the independent position of one party should be abandoned by the other, in order that they might treat on terms of equality. The treaty which followed on this parliamentary resolution was concluded at Edinburgh on the 17th of March. It was ratified by the Parliament of England at Northampton in April, and hence is called the Treaty of Northampton.

The treaty makes provision for a royal alliance, to be afterwards mentioned—this occupies, by court etiquette, the prominent place in the record of the treaty. Next comes a promise that the two kings shall be faithful allies to each other, and live in peace and harmony, with reservation of the obligations of the King of Scots to his ally the King of France; but if, in keeping of these obligations, the King of Scots find it necessary to make war in England, then the King of England may make war in Scotland—a stipulation which seems to be very reasonable. All documents in the possession of the King of England containing stipulations inconsistent with the independence of Scotland are declared void, and are to be given up to the King of Scots wherever they may be found; but if the condition by which the King of England consents to annul them becomes void, then they are to be returned. This odd stipulation is explained by other stipulations. Scotland agrees to pay to England, by three instal-

[1] The copy of this important state paper which has been chiefly relied on, is that preserved in the Scotichronicon, xiii. 12. There is a copy of it, as reported to a meeting of the Scots Estates held at Edinburgh on 17th March, in the first volume of the Scots Acts, p. 126.

ments, the sum of twenty thousand pounds sterling, apparently as damages for the mischief done in the recent raids across the border; and if there is failure in the punctual payment of this money, the stipulation for cancelling the documents prejudicial to the independence of Scotland becomes void. There is another stipulation which reveals something of the position of both kingdoms as to the alien and outlying provinces. If the Irish rebel, the King of Scotland is not to help them; and so of the inhabitants of the Scottish islands, the King of England is not to aid them in war against the King of Scotland. The King of England agrees to use his good services in the withdrawal of all proceedings at the Court of Rome prejudicial to King Robert or his dominions.

There is no doubt that this treaty was eminently favourable to Scotland. It was felt as a provoking check on the opportunities which, as we shall see, afterwards opened for the resumption by England of the policy of conquest. It is treated by some of the early annalists as one of the acts of treason to the country committed by those who had the command of England at that time. Others, again, deny that it was ever accepted by England. The denial has been repeated in later times; and it is curious to find that while so many diplomatic papers, comparatively of trifling moment, have been preserved to us among the records of England, this treaty has been dropped out of them. We have it only from the duplicate preserved in Scotland, which is, however, authenticated by the representatives of England.[1]

[1] Scots Acts, i. 124. An abstract and account of the document is given in Robertson's Index to the Charters, p. 101. It is there stated

We are told that, either under separate stipulations, or in accordance with the spirit of the Treaty of Northampton, the Black Rood was restored to Scotland, and that it was intended to restore the Stone of Destiny, but the citizens of London would not permit it to be removed.[2] Probably they were less affected by hatred to Scotland than by a reverence for the sacred character of the relic.

While the contest in England was drawing to this conclusion, Scotland was not entirely without domestic history. A Parliament held in 1318 passed so many laws relating to special matters of order and good government, that an account of them would be as little emphatic or palatable to the reader as an abridgment of the proceedings of a modern session of Parliament. It may be mentioned, as showing the progress then made in notions of internal organisation, that an Act was passed professing to accomplish an object which at the present day statute after statute seems to essay

that it has "the seals of the three lay plenipotentiaries still pretty entire —those of Percy and Scrope especially." No historical position could be more preposterous than the denial, which some have thought it proper to make for the honour of England, that this treaty was ever accepted. Although it was not to be found in the old editions of the Fœdera, it is repeatedly referred to in documents there, and especially in some which convey pretty hard dunning for payment of instalments of the 20,000 pounds stipulated as damages for the sufferings of England. The penalty for failure to pay was, that Scotland was to be left unreleased from the heavy ecclesiastical writs out against her king and people at the Papal Court, and the reference to this alternative imparts to the demand for payment a curious mixture of the secular and the spiritual. These applications, instead of being addressed, like the documents before the treaty, to a private person, are "Magnifico domino David Regi Scotorum illustro," and proceed "magnificentiam vestram requirimus et rogamus quatenus denarios illos," &c. The treaty is in the Record edition of the Fœdera, ii. 730.

[2] Chron. Lanercost, 261.

in vain — the treatment of that valuable fish, the salmon, in such manner that it may be consumed so far as, and no farther than, may be consistent with the due preservation of the breed. Another statute seems more to the purpose of the day: it is for the arming of the people, and requires that each man with ten pounds shall in time of war have an acton or doublet of proof, with a basnet or iron head-piece, gloves of plate, and a spear or sword. Instead of an acton and basnet he might have a habergeon or jacket, with a hood for the head, plated with iron scales.[1]

The great barons who held estates both in England and Scotland had by this time, either of choice or necessity, to attach themselves to the one country or to the other. The tendency of European politics at that time was to extinguish that sort of free citizenship in several states which had arisen with feudality and chivalry, and to require undivided allegiance from all the inhabitants of a state. Those who had cast their lot with England could not, of course, be permitted to retain their domains in Scotland. We do not find, however, among extant documents, such acts either of general or particular forfeiture as we might expect. Perhaps no such measure was necessary, and a short and very unnoticeable Act of the Parliament of 1318 may have accomplished the object in a shape less offensive. That Act, pleading the necessities of a country which has to defend itself by war, prohibits the removal of any commodities or money from the

[1] Of the English troops of the same period Grose says (Military Antiquities, i. 125), "Most of these in the earlier periods were defensively armed with a kind of iron skull-cap named a bacinet from its similarity to a basin, and a coarse leathern or linen doublet stuffed with cotton or wool, called an ackton or hoqueton, and sometimes a jack."

kingdom of Scotland. Those who lived in England could thus draw nothing from their estates.[1] It is easy to believe that there might be a deep policy in this. Men whose estates are solemnly forfeited are driven into a hostile position, perhaps prematurely. If no more was done against the exiles than the short Act expresses, then their position as Scots subjects was not changed; they were welcome to all its privileges, but to obtain them they must return to Scotland, and, living under the laws of the country, fight against its enemies.

Another Parliament was held at Cambuskenneth in July 1326. It is remarkable as being the earliest in which the representatives of the burghal corporations are minuted as having assisted. A great tax was levied by that Parliament, and as the burgesses would have to pay their portion, so their representatives consented to it. It was for the purpose of meeting the cost of the war, and amounted to the tenth penny of all rents or profits from land. The amount was to be assessed according to the extent or valuation of Alexander III.'s time, with an exemption to lands desolated by the war. The tax was limited to the lifetime of the king. There were provisions for its being equally collected and passed into the exchequer, so that if any persons were favoured by remission of their share the grant itself should be null. The Parliament spoke of the intolerable weight of the feudal exactions, especially when they were stretched; and in consideration of their liberal grant, especially limited the part of the prerogative to the fair exaction of the established feudal dues.

[1] "Na kyrkman of quhat sum evir condicioun or stat he be the whylk ony thyng hes wythin the kynrick, na zit ony lawyt man the quhilkis hes rentis or possessiounis sal presome to leid or to send gudis or rentis utouth the kynrick."—Scots Acts, i. 113.

It is among the events of King Robert's reign, that in the year 1320 a conspiracy against him was discovered, and those concerned in it punished. It leaves no more impression on the history of the period than mere names, yet it had a far-off source. The hero of it —the person who was to supersede the king—was a De Soulis, a descendant of that Nicholas de Soulis, the competitor for the crown whose ancestor, Allan the Durward, had attempted, as we have seen, to get his wife legitimated as a daughter of William the Lion. Could he have effected this, her descendants would have been unquestionably the nearest heirs to the crown.

In March 1324 a son was born to King Robert by his second wife, Elizabeth, daughter of Aymer de Burgh, Earl of Ulster. This event superseded the arrangements for the succession to the throne. By the Treaty of Northampton it was provided that this infant should marry Joanna, the daughter of Edward II. of England, and there were complicated arrangements for another matrimonial alliance calculated to keep the peace between the two countries if this should fail.

The good King Robert was visibly approaching the end of his days on earth, and none can follow him to their conclusion without a feeling of satisfaction, that in the infirmities from which he could not recover he had the proud satisfaction of possessing that Treaty of Northampton—the certificate that he had recovered for his Scottish people their conquered kingdom. He died at Cardross, on the northern shore of the Firth of Forth, on the 7th of June, in the year 1329.

A reign such as that of the good King Robert could not fail to leave a strong and enduring impression on the hearts of a manly and kindly people. What he

had of adversity, endurance, and struggle in his early days, told for their emancipation as well as the triumphs of his later. Down to the last moment of all, the tenor of his reign was success after success, and afterwards it became all the more illustrious by contrast with the evil days that followed. For some little time after his death his name was still recalled to his faithful countrymen by stories of chivalry and romance occurring far away, yet closely associated with the memory and influence of their beloved champion; whether they were all accurately narrated at home need not be inquired. They told how Lord James of Douglas, commissioned to carry the Bruce's heart to Palestine, set off thither with a gallant company; how, learning on his way that Alphonso, King of Leon and Castile, was at war with the Moorish chief Osmyn of Grenada, he deemed that aiding the Christian in such a contest was thoroughly in harmony with the purpose on which he had started; how, in a keen contest with the Moslems, Douglas flung before him the casket containing the precious relic, crying out, "Onward as thou wert wont, thou noble heart!—Douglas will follow thee!" how Douglas was slain, but how his body was recovered, and also the precious casket; and how in the end Douglas was laid with his ancestors, and the heart of Bruce deposited in the church of Melrose Abbey.

END OF THE SECOND VOLUME.

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